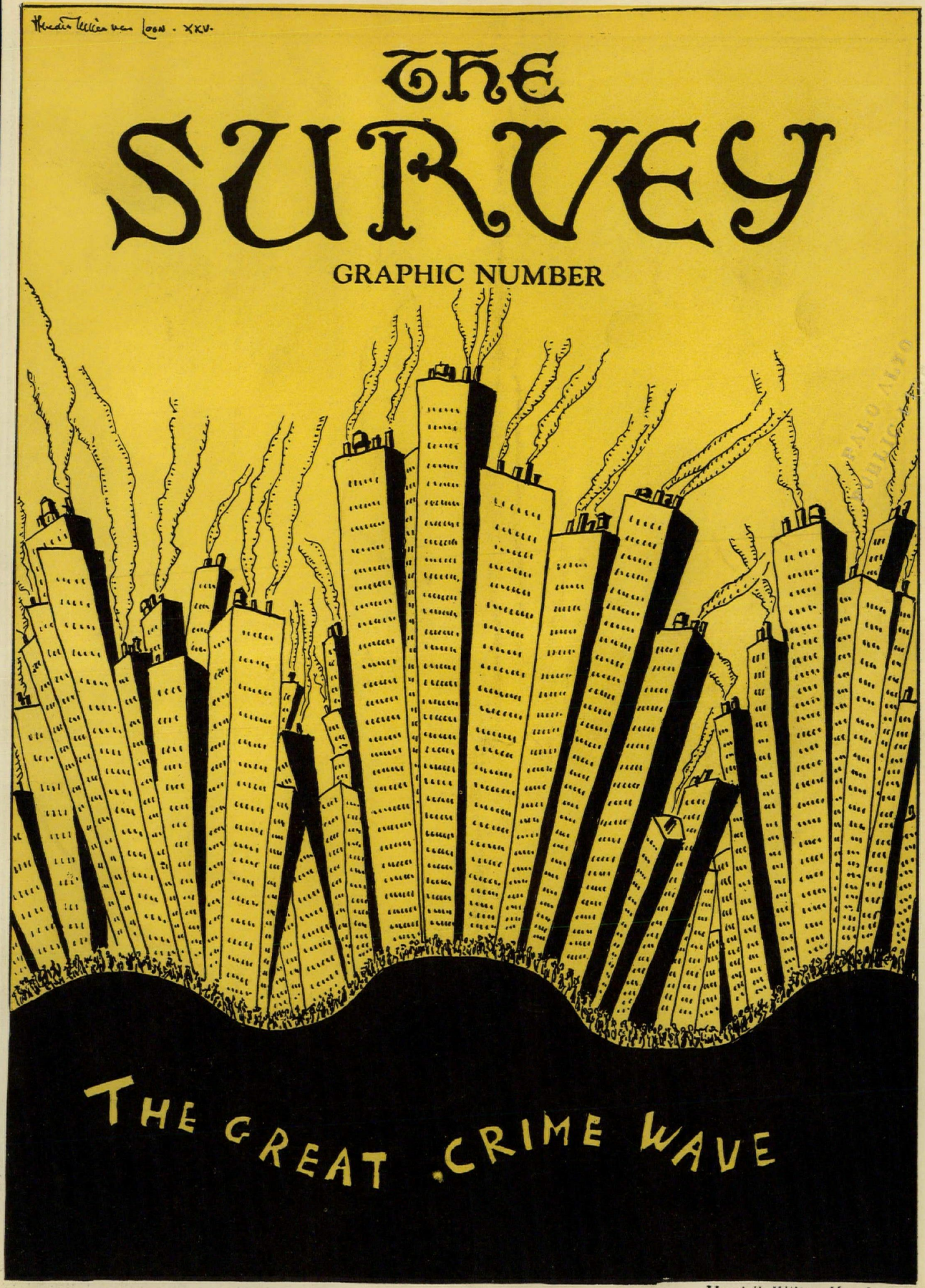

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Behind the Yellow Mask

ORIENTAL-AMERICAN contacts—the fringe of acquaintance, repulsion, cooperation between yellow men and white—will be the subject of the Survey Graphic for May. This special number will deal first of all with an extraordinary enterprise in mutual understanding—the Survey of Race Relations on the Pacific Coast, which has been carried on under the general leadership of Professor Robert E. Park of the University of Chicago in association with a group of university men and women on the Pacific Coast and with the Institute for Social and Religious Research. With this base, the number will also reach across the Pacific to interpret briefly some of the controls in Hawaii and west of the Pacific which also have their profound bearing on the future of the yellow and white races.

Among the contributors to this number will be:

ROBERT E. PARK, president of the American Sociological Association, professor in Chicago University, author or co-author of The City, The Immigrant Press and Its Control, and Old World Traits. Professor Park is in general editorial charge of the issue; under the title The Yellow Mask he will interpret the significance of the survey which he headed and will express his ripe philosophy of race contacts.

WILLIAM ALLEN WHITE, editor of the Emporia Gazette and otherwise internationally famous, contributes a robust account of Hawaii: The Last of the Magic Isles—the island where Pacific problems seem most happily on the way to an adjustment.

CHESTER H. ROWELL, for all practical purposes California's minister of foreign relations under various state administrations, sums up the interplay of yellow men and white opinions in the Pacific states and interprets the issues that grow out of it.

WINIFRED RAUSHENBUSH, associated with Professor Park in the Pacific Coast survey and in the preparation of this special number, gives first-hand, sympathetic pictures of two Chinatowns and two Japanese farming villages—not as the tourist or the propagandist of either side sees them, but in some measure as they see themselves.

LEWIS S. GANNETT, associate editor of The Nation, now in the midst of a six-months tour of the Orient, has looked at America—from China—and tells what he saw through the eyes of his Chinese friends.

KAZUO KAWAI, a Japanese boy, born in America, and a Chinese youth, write of what is perhaps the loneliest group of young people in the country—those Orientals who have lost their Eastern culture and are barred—or all but barred—from gaining a Western livelihood.

EMORY S. BOGARDUS, professor of sociology in the University of Southern California, author of many sociological texts, has devised a fresh and revealing scale for the measurement of what he calls Social Distance, and describes it in terms of the Last of the Magic Isles—the island where Pacific prob-

ELIOT G. MEARS, of Stanford University, executive secretary of the Survey of Race Relations, has studied the Japanese on the Land—that infiltration of Oriental workers into the agriculture of California which has so deeply stirred the state economically and socially, and writes of it.

R. D. McKENZIE, of the University of Washington, now touring the world as a Kahn Fellow, tells of the drift of the Chinese first and the Japanese later from farm and timber-land to the towns—the succession of occupations of yellow workers on the coast.

J. STEWART BURGESS of Princeton-in-Peking, who wrote so vividly in The Survey for October, sketches the forces that are making the new China. Vera Kelsey and Paul Blanshard tell of the nascent labor movements in China and Japan, respectively.

LEROY BALDRIDGE, who spent two years in China and Japan after making his distinguished army sketches in France, and Winold Reiss, whose brilliant studies of racial types are familiar to Survey readers, contribute portraits and decorations.

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THE SURVEY

Graphic Number

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The Gist of It

IS there a crime wave? And if so, what can we do about it? Believing that these questions are not only of pressing interest but that they can never be answered successfully by the hasty formulas of the sensation-monger and Gawdsaker, The Survey devotes a score of its pages in this issue to the answers of men who have put years of patient study on them and on the social verities that underly them.

GEORGE W. KIRCHWEY brings to the discussion knowledge and thoughtful analysis of the penal problems of several states as an official commissioner, as warden of Sing Sing, as an unofficial specialist and consultant on many occasions and in many places, as teacher of criminology for the last nine years at the New York School of Social Work (p. 593).

AS field secretary of the National Society for Penal Information, and editor of the Handbook of American Prisons, Professor MacCormick has visited prisons in nearly every state. His trip of inspection last summer took him through the western circuit. He reports (p. 598) in a refreshingly even-handed way, what he found.

IN CLEVELAND, as director of the Cleveland Foundation, and more recently in association with the Missouri Association for Criminal Justice, Raymond Moley, now professor of government and politics in Columbia University, has closely studied the apparatus which society uses for dealing with the criminal—the police, the courts, the whole process of "justice." Here he points out some of the outstanding difficulties in American use of that apparatus (p. 602).

CHARLES PLATT of Philadelphia, whose ideas on crime and punishment appear on page 605, has devoted the last seven years to a study of delinquency, and a lifetime to the observation and consideration of social problems. For years a practicing physician, he is now chairman of the Citizens' Committee of the Municipal Court of Philadelphia, a director of the Pennsylvania Committee on Penal Affairs, chairman of the Pennsylvania Committee for the study of Probations and Parole and president of the National Probation Association.

KARL A. MENNINGER (p. 610) is a practicing psychiatrist in Topeka, Kansas, head of the department of criminology at Washburn College, Topeka, and chairman of the Committee on Legal Aspects of Psychiatry of the American Psychiatric Association.

JOHN L. GILLIN who offers a reading list of books on crime, is professor of sociology in the University of Wisconsin.

GRATITUDE is due to the executives of these organizations—for their cordial cooperation in furnishing information on the degree of crime in their respective cities: Col. Henry Barrett Chamberlin, operating director of the Chicago Crime Commission; James M. Hepbron, managing director of the Baltimore Criminal Justice Commission; Robert H. Jamison, president, and J. M. Shallenberger, operating director of the Cleveland Association for Criminal Justice.

A CITY museum that tries to be something beyond a storehouse for beauty and antiquity is decribed (p. 613) by John Cotton Dana, its director.

AN interesting response to Mrs. Webb's reminiscenses of Spencer comes from Charles B. Austin of Mount Vernon, N. Y. He writes: "Mrs. Webb says that she cannot trace her quotation 'Spencer's Faith' in any edition of Social Statics to which she now has access. It is in the American (Appleton) edition of 1865, Chapter 22, paragraph 8, page 322. To make the quotation in The Survey agree substantially and in full with the text, at the end of the first paragraph add: 'One by one exceptions vanish, and all becomes systematic. Suddenly what had appeared an anomaly answers to some intenser thought, exhibits polarity, and ranges itself along with kindred facts.' Line 1 of paragraph 3, not 'working' but 'worker'; line 5 of paragraph 3, not 'landed' but 'lauded'; close of paragraph 3: 'simplicity of those principles by which every defect is being remedied—principles that show themselves alike in the self-adjustment of planetary perturbations, and in the healing of a scratched finger—in the balancing of social systems, and in the increased sensitiveness of a blind man's ear—in the adaptation of prices to produce, and in the acclimatization of a plant.' In the original text it is all printed as one paragraph." The final instalment of Mrs. Webb's memoirs appears on p. 622.

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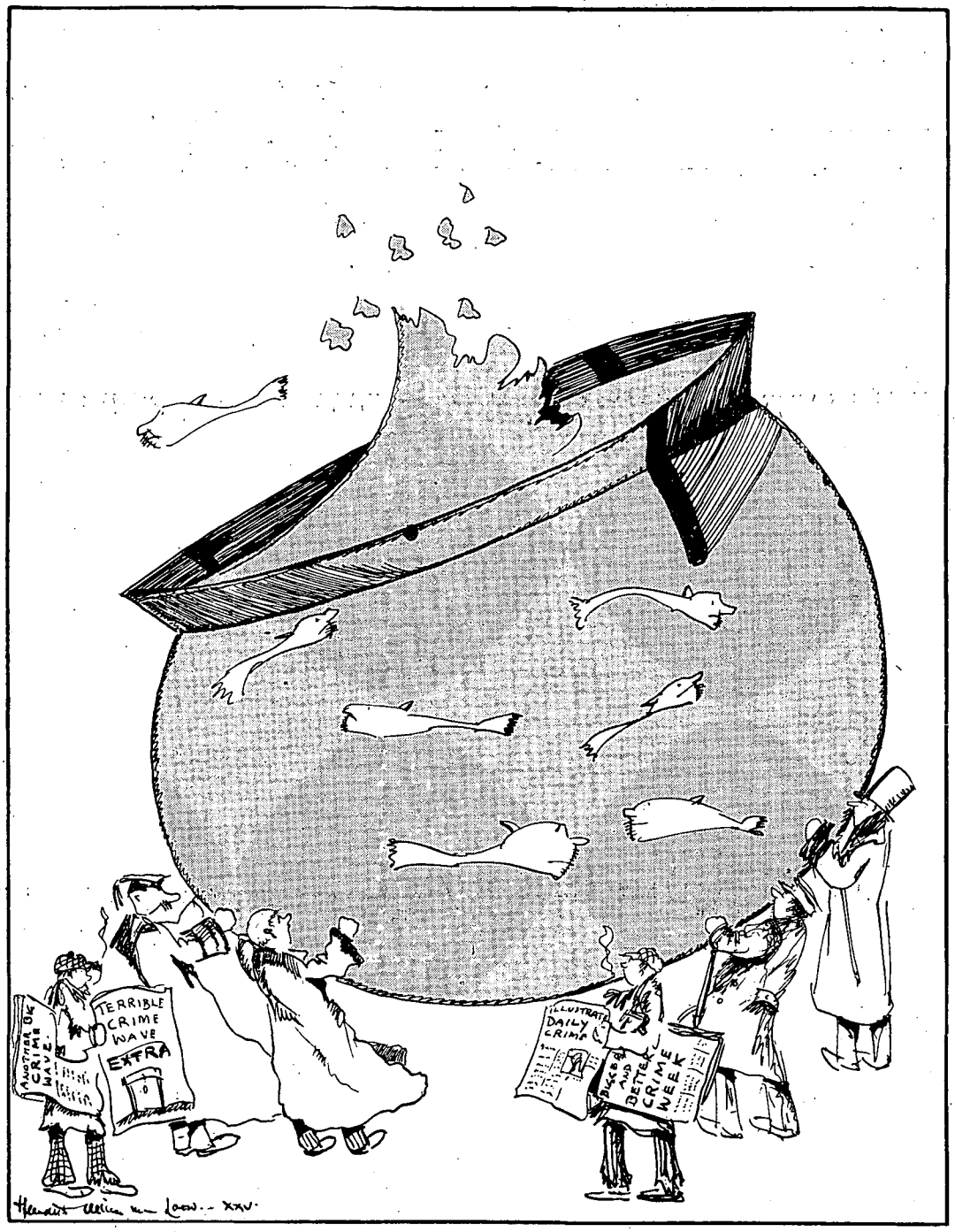

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THE SURVEY

GRAPHIC NUMBER

MARCH 1, 1926

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Crime Waves and Crime Remedies

By GEORGE W. KIRCHWEY

IT begins to look as though we were actually going to do something about crime. It is true that the most vociferous of the propagandists of the warfare against crime are of the class of inflammable spirits known as "God sakers," who don't know what it is all about but are sure that something must be done about it right away, but the propaganda has at last enlisted the interest and the active cooperation of a large and increasing number of more serious minds capable of seeing the situation steadily and seeing it whole. It is the accession of minds of this more rational type that holds out the promise that the agitation will prove to be something more than a flash in the pan. Whether it will reach the proportions of a movement depends on the state of the public mind and as to this we are still in the dark. Possibly the best judges of this are the editors and publishers of our daily press and our weekly and monthly magazines, who give the people what they—the editors and publishers—think the people want. If these have guessed right, the public is ready to deal with the criminal. The movement will become a *Movement*. It is to be hoped that they are right. It is certainly high time that something be done about crime.

It is not to disparage this movement, for which we fear even as we hope, but rather to cleanse it of the perilous stuff which weighs upon it that we call attention to the fact that it is an ill-begotten thing, sired by Delusion and dammed by Fear. The propaganda on which it has thrived is, for the most part, a compound of conjectural facts as to the prevalence of crime, imaginative assumptions as to the causes of such prevalence and magical formulae for dealing with the situation. The danger of which is that the people may discover that they have been victimized by fairy tales and will thereupon slump back into their customary attitude of comfortable indifference with respect to the crime that actually exists and the reasonable remedies that may be offered for controlling it. Or, what is worse, they may continue to believe and fear, and back any remedy, however desperate, for a desperate situation.

As has already been said, the movement has gained or is gaining momentum. But momentum is not enough. To avoid catastrophe, to reach the desired end, there must also be wise direction, and wise direction cannot exist without knowledge of the facts. What, then, are the facts as to the prevalence of crime in the United States?

The facts are what will remain after the fancy picture-writing has been erased from the board.

It is not necessary to spend time over the rhetorical flashes that light up the drab statistical matter in the crime literature of the day. Such palpable exaggerations as the statement that "America is the most lawless nation in the world,"[1] and the assertion that "crime in this country is overwhelming the people" and "submerging our very national institutions"[2] cannot be taken seriously.

CRIME AND ITS CURE

"The crime wave is a state of mind. Crime is an ever-present reality," says Dean Kirchwey in this spirited review of the whole crime situation, before which our established institutions stand frankly baffled. On the following pages, in more detail, four authorities approach the subject from different, though complementary, points of view:

Raymond Moley

studies what happens between the arrest and the sentencing of the criminal, and the relation of public opinion to The Sieve of Justice

Austin MacCormick

tells what he has found in American prisons, and estimates their effect on the continuance of crime.

Charles Platt

brings a life-long study of penal practice, especially probation and parole, to bear on the underlying question, Does Punishment Pay?

Karl A. Menninger, M.D.

challenges, with the revolutionary concepts of the psychiatrist, the whole rickety structure of precedent and legalisms which is our present defense against crime.

1. Lawrence Veiller, The Rising Tide of Crime, Worlds' Work, December, 1925.

2. Mark O. Prentiss, War on the Growing Menace of Crime, Current History, October, 1925.

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But what we find running through all this literature is the reiterated assumption that we are, in the matter of crime, facing an unprecedented situation. The expressions "crime wave" and "crime tide," originating in the picturesque imaginations of newspaper headline writers, have been accepted by all the propagandists and, from them, by the reading public as an accurate description of existing conditions. Our crime-rate, high enough before to satisfy most reasonable people, is going up, year by year, at an alarming rate. Such an unimaginative lawyer as James M. Beck, has committed himself to the statement that "The statistics of our criminal courts show in recent years an unprecedented growth in crimes." Reflecting the alarm resulting from this propaganda, the American Bar Association in 1921 created a special Committee on Enforcement of the Law. This committee, composed of eminent lawyers, made a provisional report at the San Francisco meeting of the Association the following year in which it summed up its view of the crime situation in the following terms: "Particularly since 1890, there has been and continues a widening and deepening tide of lawlessness in this country, sometimes momentarily receding to swell again into greater depth and intensity."

It is worthy of note that none of these allegations is anything more than a conjecture. Not one of them is based or is claimed to be based on statistical evidence. Figures are, indeed, given, appalling figures—like the statement made in the address of Judge Marcus A. Kavanaugh of Chicago before the St. Louis Bar Association in March of last year. "There are at large and unafraid in the United States at least 135,000 crimson-handed women and men who unlawfully have taken human life." On the same occasion Judge Kavanaugh declared that the number of those who live by crime was "increasing with incredible rapidity." But the figures are in nearly every case introduced with the truthful statement that we have no trustworthy statistics of crime in this country. The Bar Association Committee declares that only fifteen of our states make even a pretense at compiling such statistics.

BUT even with this dearth of official statistics of the kind that they do have in Great Britain and a few other countries of western Europe, we are not completely at the mercy of our intuitions. There are several sources of information sufficiently trustworthy to serve as a basis for an approximate estimate of the facts.

Far the most important of these for our purpose is the biennial report of commitments to the prisons of the United States made by the Census Bureau at Washington, which is based on official data, carefully analyzed and compiled, and which covers the entire country. A perliminary bulletin, just issued, gives the figures for the year 1923, with comparative data for 1910. If it be objected that a record of convictions gives no clue to the actual number of crimes committed, the sufficient answer is that our present concern is not with the *volume* of crime but with its *movement*, that is to say with its rise or fall and with the rate at which it is increasing or diminishing. It is true that in offering the census report for this purpose it is necessary to assume that there is a fairly constant ratio between crimes committed and convictions and this, it is submitted, we may reasonably do.

[However inefficient our administration of criminal justice may be, there is no reason to believe that it is getting worse. If there has been any change in the last ten or fifteen years it has apparently been in the direction of a higher rather than a lower efficiency. The agitation which has called out this paper certainly has this to its credit, that it has put all the instrumentalities of criminal justice—the police, the committing magistrates, the prosecuting attorneys and the courts—on their mettle. It is asserted by the civic organizations instituted for this very purpose and conceded by the committee on law enforcement of the American Bar Association that the tendency in recent years has been in the direction of a stricter enforcement of the criminal law.

Assuming, then, that the number of commitments to our jails, reformatories and prisons from year to year is a fair index of the criminality of the community, we may safely turn to the census report for the desired information.]

Let us take heart of grace from the discovery that, in the period of thirteen years covered by the report (1910-1923), there was a marked decrease of 37.7 per cent as registered by this index, in general criminality in the United States in proportion to the population. It is true that this decrease was mainly in the minor forms of crime, represented by commitments to jails and workhouses (40.8 per cent) and that during the same period there was an increase of 13.2 per cent in the more serious offenses which led to commitment to prisons and reformatories; but when it is remembered that the number of so-called petty-offenders is from ten to twenty times as great as the number of those who commit the graver offenses, the gain to the community from the downward trend of the general crime curve is obviously a matter for gratification.

This becomes more apparent when it is noted that the present volume of serious crime is so largely made up of offenses arising out of the violation of new laws, such as the prohibition and narcotic legislation of the last few years. In the period under consideration violations of liquor laws increased 326.2 per cent and violations of drug laws 2066.7 per cent, while the increase in automobile traffic accounts for 67.3 per cent rise in violations of city ordinances punished by imprisonment. On the other hand we find the following significant reductions: public intoxication, 55.3 per cent; disorderly conduct, 51.5 per cent; vagrancy 52.8 per cent; fornication and prostitution 55.7 per cent; malicious mischief, etc. 68 per cent; larceny 53.1 per cent; and burglary 11.4 per cent. The falling off in larceny by more than one-half is remarkable in view of the enormous increase in automobile thefts reported from all of our large cities during the last five years.

In addition to the cases above mentioned, the only offenses that show an increase are rape, 33.3 per cent, forgery 68.2 per cent, homicide 16.1 per cent, and robbery 83.3. As to the first of these, various judges and prosecuting attorneys who have been consulted unite in the opinion that the increase in convictions for rape has been due mainly, if not entirely, to the tendency of recent legislation to raise the "age of consent" from ten to sixteen and eighteen years. For the increase in convictions for forgery it is suggested that banks and business houses have united in a more relentless pursuit and prosecution of those guilty of the offense and that the figures given represent not more crime but better law enforcement. The increase in the homicide rate is disquieting, averaging 1.3 per cent a year, but may be in part explained as an incident of the illegal traffic in liquors and drugs and of the reckless operation of the automobile in our crowded

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city streets, but it may in larger part fairly be attributed to the reckless use of the gun in connection with robbery.

IT is unfortunate that in the United States the police records of crimes reported are too defective to warrant their use as evidence of the upward or downward movement of crime. It is, however, significant that, in the three cities, Baltimore, Cleveland, and Chicago, in which the police records are checked up and verified by local civic organizations, these reports tend upon the whole to confirm the results of our analysis of the statistics of prison commitments given out by the Census Bureau. It must be conceded that the value of these local returns for our present purpose is impaired not only by the circumstance that they cover a very short period of our recent history but even more, perhaps, by the inexplicable fluctuations that they disclose from year to year. It will take a profounder study than has yet been given to the causation of crime to account for the fact that the number of reported burglaries in Cleveland fell from 1,026 in the year 1922 to 610 in 1923, a decrease of over 40 per cent, and that by 1925 it had gone up again to 944, an increase of over 50 per cent. These facts suggest the need of caution in dealing with the figures but they certainly justify for all of the three cities so reporting the claim made for his own community by the executive of the Baltimore organization: "Baltimore has . . . more than held its own. . . . We have had less serious crime despite a marked increase in population." If in this case the period of observation (only two years) has been too short to justify us in attaching much significance to the concrete results recorded, it may surely be contended that the longer experience of the two other cities furnishes a fairly satisfactory basis for judgment. Thus Cleveland, reporting for the six-year period, 1920-1925, shows a decided decrease in burglary, including housebreaking, of 34 per cent, and in robbery, with assault to rob, of 32.5 per cent, but, for the shorter period of four years (1922-1925) a rise of over 25 per cent in the homicide rate. A better case is that of Chicago where the Crime Commission from which our figures were obtained has been in operation for a period long enough to make its influence felt as well as to establish the trend of the crime movement. For this reason the seven-year record submitted from that city has peculiar significance. This shows a continuous and accelerating reduction in the volume of serious crime, amounting to 41 per cent in robbery and 80 per cent in burglary, while the homicide rate, with many intermediate fluctuations, shows at the finish no increase.

What this analysis of the evidence brings us to is that robbery, with murder as a frequent incident, is the phenomenon that has brought all this clamor to our dulled senses. *Robbery is the crime wave.* Not because of its frequency. Notwithstanding its increase in the country at large and the shrinking of the burglary rate, the number of robberies is still little more than one-third the number of burglaries. Fifteen years ago it was only one-fifth. It is the sensational character of the crime that has given it its glamorous and terroristic effect. Visions of Dick Turpin and Jack Cade and the James "boys" come to reinforce our natural fears of meeting a like experience.

The cause of this rapid rise of robbery into favor is not far to seek. It is the discovery that it is at once the safest and the most profitable form of criminal activity. The foot-pad haunting country roads or the byways of the city usually finds poor pickings. It is not there that big pay-rolls are carried and rich jewelry displayed, but in the crowded streets of the big city. With the automatic gun to paralyze the victim and wayfarers and the automobile at the curb to ensure a quick get-away, is there any wonder that the young dare-devils of the criminal profession are attracted to the game? With the newspapers reporting and dramatizing every detail of every hold-up of this character, the wonder is that more of them don't go in for it. It is certainly made to look like easy money with a minimum of risk. Perhaps the answer to this is that it takes a lot of nerve to pull off a robbery of this *fin de siècle* kind and few criminals have the nerve to attempt it. Obviously it is up to the police. They must make robbery a hazardous risk. Even if they have to double their numbers and quadruple their intelligence to do so.

WHAT, then, is left after the extravagances of the propagandists have been eliminated from the picture? What remains is a chronic condition of criminality in our American civilization which far transcends that of any country of Western Europe or of our English neighbor to the north of us. How greatly our homicide rate, our scale of burglary or of robbery exceeds that of Great Britain, for example, nobody knows, but we may be sure that to know would not add to our pride or self-respect.

But there is nothing new in all this. Every decade or two it is discovered over again and is again trumpeted to the four corners of the land as though it were a sudden slump into the pit of a previously virtuous and law-abiding society. There was a "crime wave" in the years immediately following the Civil War. There was another a decade later when the New York Society for the Prevention of Crime was organized to meet it. United States Judge Charles F. Amidon of North Dakota said in a recent address, "When I went on the bench thirty years ago there was the same agitation about the shocking conditions of crime in the United States that there is today." Twenty-five years ago the distinguished scholar and patriot, Andrew D. White, formerly president of Cornell University, went about the country stirring great audiences by his picture of crime conditions in the land and calling renewed attention to the example of England. Fifteen years ago, Dr. Julius Goebel, Jr., of the University of Illinois, reported in the Amerian Journal of Criminal Law and Criminology that there was then "a wave of crime passing over the country so important and alarming that it demands the attention of every true patriot," while Dean Edith Abbott of the University of Chicago declares that in the twenty-two years of her residence in that city "there has not been a single year without its crime-wave."

LET this record suffice. It is no new situation that confronts the third decade of the present century. Both the fact of crime and the alarm which it occasions are a part of our history—back to the Civil War, back to the foundation of the Republic. *The crime wave is a state of mind. Crime is an ever-present reality.* Let us then face it and see what we can do about it.

But let us not lose our heads over it. It is here that our more unbridled propagandists have drawn the long-bow too hard. They have shot the community full of their own

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panicky state of mind as though it were a bandit with a gun at our heads instead of a deep-rooted social problem that we were up against. Nothing less than this can account for the ferocious sentences that many of our judges during the last few years have imposed on convicted offenders—sentences to imprisonment for twenty, forty, sixty and more years[1] for offenses which in England are rarely punished by more than five years of penal servitude.[2]

More menacing even than this stimulation of judicial excess is the incitement of lawlessness among the governing classes of the community. A New York legislator rises in his place and demands the whipping-post and lynch-law to stem the tide of crime. Chambers of commerce, bankers' associations, and like organizations urge law-abiding citizens to arm themselves: offer rewards for the killing of bandits at sight.[3] Police shoot so recklessly in crowded thoroughfares and with such fatal effect on innocent citizens that a New York judge has publicly proposed that for the safety of the community the police be deprived of fire-arms. We preach the sacredness of law and in the same breath excite a civic lawlessness which converts the American scene into a guerilla warfare between two equally lawless elements of the community. It is not by mad-house methods such as these that England has established the reign of law and order within her borders.

All the way along, with each successive spasm of excitement over the crime situation, causes have been assigned and remedies proposed—the same causes, the same remedies. The family has always broken up and the administration of justice has always broken down. The new generation is in revolt against the moral standards of their elders and the older generation has lost its former respect for law and order. Religious faith has decayed (which, between us, it has been doing since the thirteenth century) and there has been a multiplication of new vexatious laws (which, believe me! has been going on ever since the Pilgrim Fathers landed on Plymouth Rock.)

Obviously most of these assigned causes are as far beyond the reach of the exigent reformer as the precession of the equinoxes (whatever that may be) but that need not faze us as the profounder causes are all bound up in his mind with the one outstanding fact of the failure of the law to make itself a terror to evil-doers. This, then, is the root of all the trouble. All that we have to do to cut down the volume of criminality is to jack up the whole process that intervenes between the commission of the crime and the execution of the sentence passed on the malefactor. The police must be brought to take him into custody, the magistrate must hold him, the district attorney must be prompt and efficient in prosecuting him, the court must try him with neatness and despatch and the gallows or the prison must dispose of him. All this is done in England. Why not here?

Probably it will always be a moot question how far we may hope, by an efficient administration of the criminal law, to cope with the menace of crime, but it is certain that in the United States we have never given the method a decent trial. Where the chances of punishment are as slight as they are with us, only moral restraints or an excessive timorousness can account for the fact that the reader and the writer of this paper do not take at least an occasional fling in a hold-up. But the critics are mistaken in assuming that this is a new thing.[1] Like our excessive record of crimes of violence, it is an old story. If there has in recent years been any change in the administration of criminal justice, it has, as in the case of the crime-rate, been a change for the better.

That the improvement has not in either case been greater may safely be attributed to the fact that both the prevalence of crime and our abortive methods of dealing with it are symptomatic of our national morality; that we are getting the law enforcement that we want and the crime rate that we deserve.

BUT this is no occasion for despair. That our American community can be roused from its habitual attitude of indifference to these conditions has been clearly demonstrated by the effects of the anti-crime propaganda. The point now is to take advantage of this new temper of the public mind not by pandering to its fury but by leading it to support a thoroughgoing, constructive program of reform. For this purpose a nation-wide organization of the social forces of the commonwealth is indispensable. It is gratifying to note that such a movement is already under way in the recent institution of local and national civic organizations to combat crime conditions. First in the field was the Chicago Crime Commission, organized in 1919 under the auspices of the Chicago Association of Commerce, and this was followed by the organization in 1921 of the Cleveland Association for Criminal Justice, inspired by the notable crime survey of that city made under the direction of Dean Roscoe Pound and Professor Felix Frankfurter of the Harvard Law School. Stimulated by these examples and by the apparent success of their efforts in meeting the menace of criminality, a group of public-spirited citizens of Baltimore in 1923 organized the Baltimore Criminal Justice Commission and this was followed by the creation of similar organizations in Los Angeles, Kansas City and now in the City of New York. In view of the immensity of the problem in the metropolis, it may safely be assumed that there will still be room for such older organizations of a similar type as the New York Society for the Prevention of Crime, organized in 1878, and the Committee on Criminal Courts of the New York Charity Organization Society, which has led an active existence for fifteen years.

In addition to the foregoing we have one state-wide organization, The Missouri Association for Criminal Justice organized in 1924, and two significant national developments, the American Law Institute, offspring of the American Bar Association, which has under way an expert study of criminal law and procedure, and the newly-created National Crime Commission, with headquarters in New York city. The latter of these has developed an elaborate organization of committees for research and the wide dissemination of information regarding crime and the administration of crim-

1 Recall the case of the boy-bandit of 16 years of age, seized and disarmed before the act, a first offender, who was sentenced by a New York judge to Sing Sing Prison for a term of 30 to 39 years.

2 Of 492 prisoners so sentenced in 1920-21 in England, 444, or 90 per cent, were for five years or less; 314, or two-thirds of the total number, were for the statutory minimum of three years. Apart from eleven murderers who received life-sentences (20 to life) only three were sentenced for more than 10 years—one for twenty and two for fifteen.

3 One thousand dollars for a live bandit and two thousand five hundred dollars for a dead one appear to be the current rates.

1 Lawrence Veiller, in World's Work, February, 1926, speaking of the immunity with which "murder, robbery, burglary and every conceivable kind of crime" is successfully practiced, says "This has not always been the case in the United States. It is a development of recent years. The increase in crime is coterminous with the break-down of our judicial system—with the failure to enforce our criminal laws."

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inal justice. One of these, the first to get into action, is a thoroughly competent Committee on the Reform of the Criminal Law.

The local organizations on the other hand have thus far concentrated their efforts on the critical observation of the law-enforcing agencies in their respective communities and for the most part on the judicial arm. They have checked up the untrustworthy police reports of crimes committed, have carefully studied and analyzed the upward or downward movement of crime and have recorded and reported to the public the numbers of arrests, trials and convictions.

BY these methods they have kept alive the public interest and have, it may be believed, to some extent stiffened the administration of justice. But it is not enough to throw the fear of God into the public officials who now make a mock of the administration of the criminal law. This is so obviously little more than a fine gesture that the army waits impatiently for a plan of attack on the real enemy—the intrenched incompetency or worse of the police, the prosecuting attorney's office and the courts.[1]

The police are in the habit of blaming the courts and the judges pass on the censure to the jury and the law, but it is safe to say that far the greater part of the miscarriages of justice rest upon the prosecuting attorney's office and the judicial administration and that 90 per cent of the immunity that crime enjoys in our great cities rests with the police. There are of course able and independent judges, capable and public-spirited prosecutors and police of superior ability and integrity, but these are the accidents, not the normal products, of the political machines to which we have confided the sacred task of administering criminal justice in this country.

It is to be feared that to urge our crime commissions, local and national, to undertake such an uncompromising, not to say devastating, task as the complete reconstruction of our system of law enforcement will strike them as a counsel of perfection, but they may rest assured that nothing short of this will bring our procedure within sight of the English system of which they never tire of reminding us.

Thus far have we gone with the crime commissions and the crusaders for justice on the criminal—to the limit of their present aim, the rigorous enforcement of the criminal law. But when they go beyond this aim we part company with them. Not content with seeking the improvement of the criminal law and its administration, some at least of these organizations have worked for a merciless severity in the imposition of punishment on the convicted offender. Owing their existence to the alarm excited by the more violent agitators, they have too often reflected the prevalent hysteria. In their too exclusive reliance on the sufficiency of punishment as a deterrent influence, they have ignored the well-established principle that undue severity defeats its purpose. They join with the judges in damning the jury for its unwillingness to bring in a verdict of guilty when, between them, they are producing a revolt of conscience which makes it more and more difficult to get juries to convict. England's longer experience in law enforcement should have taught them this lesson. The mother country of our system of criminal justice has outlived the period of her history when juries, responding to the humanitarian sentiment of the community, illogically but effectually redressed the balance of justice by refusing to convict guilty offenders. Here now, as then in England, as Lord Romilly expressed it, "The law defeats its own ends and becomes the abettor of its own violation."

Part and parcel of this unwise attitude of severity is the determined effort of certain of these organizations to break down the law and practice of probation, the indeterminate sentence and parole. It is true that these salutary features of the American system of justice reflect the imperfections of the judicial and penal administration of which they are a part and that, with the other aspects of that system they must be reformed, but to destroy or cripple them would be an act of folly. No scheme of criminal justice has any hope of commanding the future which does not increasingly employ these methods of restoring the offender.

SO much for the punitive justice which has thus far been the sole preoccupation of these new agencies of social defense. But in reading their literature, insistently there rises the question: Is law enforcement enough? True, it disposes of the criminal, but the real enemy is not the criminal but crime.

While we are checking the crime-wave of the 'twenties, the material of the crime-wave of the 'thirties is now in the making in children of six to twelve years of age in the streets of our cities, and so on, decade after decade and generation after generation, to the end of time. Is there a man living who believes that this process can be halted by the far-off picture of the prison and the gallows? The bandit is not the product of our system of legal immunity, though he is only too glad to profit by it. The criminal mind is not the result of a deliberate resolve to be a "bad man" and take the chances, but the slow, unconscious fruition of a long process of alienation from the moral aims of society. The criminal is an outlaw before, like Byron, he awakes and finds himself famous—and infamous. He is, to adapt a phrase of Rudyard Kiplings', "a demnition product" of our neglect and mishandling of him. We let him run wild in the streets and alleys of our great cities during the impressionable years of childhood and early youth, when life is still the great adventure; later on, when he is trapped by an act of delinquency or crime, we throw him into a common jail which is a sink of iniquity and then shut him up in a prison which speedily destroys his manhood and self-respect. By this time, unless he has unconquerable reserves of decency in him, he has become a fit subject, but a very unlikely one, for the deterrent aims of our system of punitive justice.

The moral is plain. We have it in our power to get the best of crime, the enemy, by anticipating and preventing it and by no other way whatsoever. This is a hard but splendid task of social engineering which might well take the first place in the program of our crime commissions. For "these ye ought to have done and not to have left the other undone."[2]

IT would be gratifying, indeed, to close on this triumphant note of faith and hope. But always there is the disturbing consciousness that we are groping in the dark. We know so little about crime and the conditions that breed it. We have so little conception of the nature of the defects of our outgrown legal machinery (*continued on page* 634)

1 See Criminal Justice in Cleveland, 1922.

2 The Bible. Matthew. 23. 23: referring to "the weightier matters of the law-justice and mercy and faith."

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"Send Them Up"—To What?

First-hand Views of American Prisons

By AUSTIN H. MacCORMICK

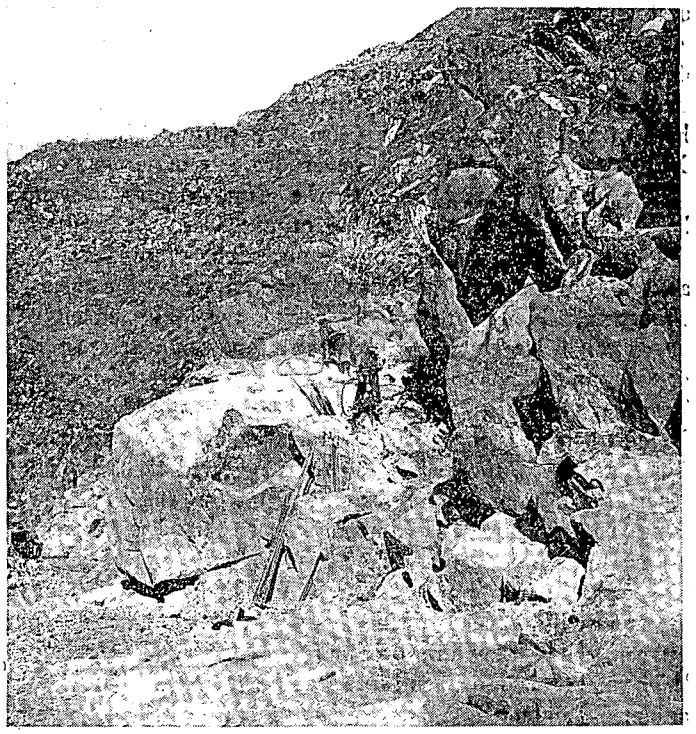
RIGOR, repression, brutal punishment, vermin, filth, darkness, fear of the club and the lash and gun—fear, fear, fear? Will these deter the criminal, once caught, from further crime? We have tried all that for a hundred years and it has not worked. That is the real test. We are a practical people, not a sentimental one, and the old prison idea is doomed in this day and age because it has not checked crime, but increased it.

IN trying to estimate our American prisons and how they are doing their work, I skip back mentally through various prison scenes and incidents of the past few years, and particularly those things which my companion and I saw in twenty-eight Western prisons last summer. They do not give the whole picture, perhaps, but they are high lights in it.

There was the "reform" prison in Colorado, famous the country over for its road work. From the standpoint of reform there is probably no bigger bluff in American prison circles today. Prisoners—for stealing a handful of raw onions from the kitchen—shackled over the "horse" and flogged by a Negro guard wielding a leather strap on a flail handle. Prisoners who attempted escape, in stripes, the hair on one side of their heads clipped close, the other half growing long, a heavy ball and chain riveted to the ankle, wheeling the ball in a wheelbarrow all day in a circle under an armed guard. A "trusty" system shot through with insincerity and stool-pigeon spying. Distrust and suspicion masquerading under the name of honor. "Bad actors" relegated to the insane section, where sane and insane alike are controlled with iron rods and fire hose. An insane prisoner horribly beaten to death, his ribs crushed by heavy boots. This is the famous reform prison of Colorado. I heard the warden's attorney defend flogging on the ground that England permits it, although the records show that Colorado flogged more prisoners in one year than the whole of England. Today Tom Tynan of Colorado is probably the only flogging warden left outside of the extreme South.

There was the down-at-the-heel prison in Idaho, its buildings literally falling apart, its cell blocks moldy with damp and filth. The one modern building there is a contract shirt shop, where the prisoners, for the most part sheep-herders, ranchers and farmers outside, bend over their sewing machines under the eye of a gun-guard. In the sun-baked yard there is one bright spot, a flower garden kept by a lifer. Straight out of the flowers rises the grim spectre of the gallows, left standing between hangings: The warden took my companion and me to the punishment cells. As he opened the solid door the foul air struck us in the face. Yet only one of the six cells was occupied. A Mexican boy about twenty years old pulled himself slowly up by the bars. I do not know how long he had been there on a bread and water diet, with no light and little air, but before we left he slumped weakly to the floor again. I heard him mutter to the warden, "Remember, my day will come some time." As the door clanged I felt that we were closing the tomb on a fellow human. But it was not time for him to come out: his spirit was not yet broken.

There were the little blackboards outside the punishment cells at San Quentin, telling when each man had been "chalked in." Twenty days—thirty days—forty days—in those totally dark and badly ventilated cells! Hundreds of prisoners locked into the "tanks" (large room-like cells holding twenty to thirty prisoners), locked out of the famous California climate at four o'clock every afternoon. A thousand men were working in the famous jute mill, afterwards loafing about for hours, their task for the day completed. In the other shops semi-idleness and listless dawdling through half a day's work was the rule. The rich state of California does not provide enough industries for half its prisoners. The prison is crowded to almost double its capacity; for ten years a new cell house has stood half completed, waiting for funds which have just now been appropriated.



Prison road camp in the California mountains. California prisoners from San Quentin and Folsom are employed on state roads hundreds of miles from their prisons. They live and work like ordinary laborers, receive a small wage, and benefit the state and themselves by their outdoor work

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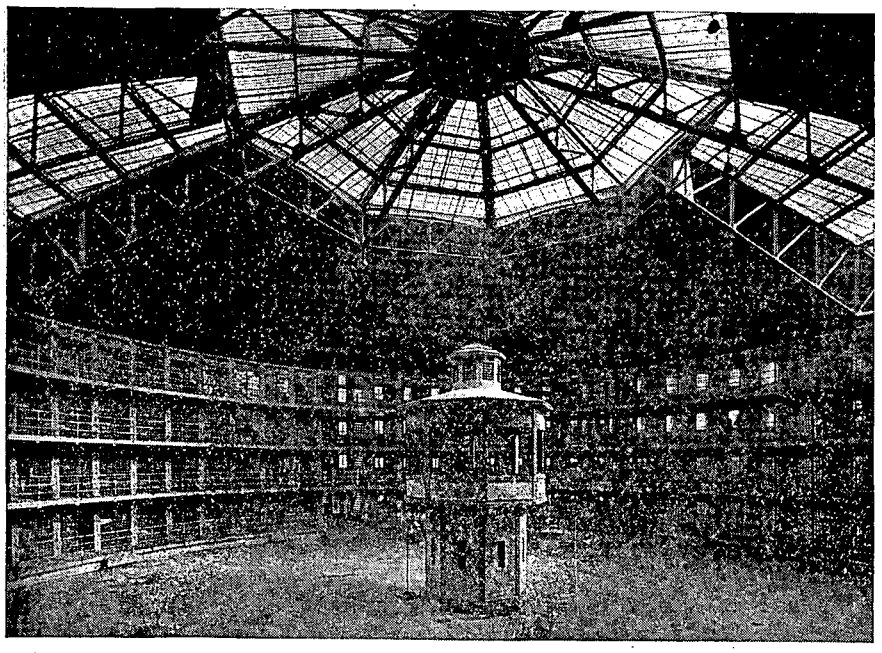

The new Illinois prison at Joliet. The circular cell-houses, in which each inmate has a cell with direct air and sunlight, represent the newest development in American prison construction. The guard in the center can see into every cell. Such construction, while excellent from the sanitary standpoint, embodies the old idea of constant surveillance and control by stone and steel

One July day we entered the yard of the Montana prison. In every spot of shade prisoners were lolling about, napping, smoking, shooting marbles, swapping yarns. On the porch of the prison theater a group of prisoner bandsmen were idly practising their scales. There are no industries at Deer Lodge, and idleness reigns supreme. A gong rang and the prisoners disappeared in the cell blocks. A few minutes later they came out marching in single file, each man with folded arms, carrying in his hand a cup and spoon. They filed silently into the mess hall and ate silently, without knife or fork, under the gun of a guard in a steel cage. Then they filed silently out and a few minutes later were again lolling in the shade. Years ago, so legend says, there was a riot in the mess hall. So, for a few minutes each day, the prisoners are put through the paces of the most repressive system. For the rest of the day there is no repressive discipline, no discipline indeed of any sort.

In the prison yard in Nevada the warden will take you to see the authentic tracks of a prehistoric monster, uncovered on the floor of the quarry. This naturally leads to a visit to another prehistoric relic, the punishment cells: cut into the quarry wall, totally dark, ventilated by a four inch pipe, and infested with mice and gopher snakes. "Yes," said the guard who showed them to me, "after thirty days in there a man's pretty weak." To reach the prison you bump over a wretched road. The state has not permitted prisoners to do road-work, yet the prison swarms with idle men; there are no industries. This prison is one of those which the government selected as a boarding place for some of the excess population of Leavenworth.

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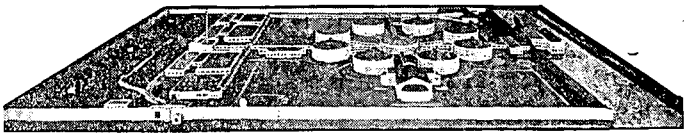
AT Leavenworth we saw a prison crowded to almost double its capacity, with no industries for its population of 3,300 federal prisoners. Hundreds of men were quartered in semi-dark basements. A squad of prisoners with blowtorches patrolled the bunks ceaselessly, making war on vermin. Everywhere about the prison were massed throngs of idle men, literally falling over each other. In the laundry it was almost impossible to reach the machinery. A shoeshop, to furnish employment for a thousand men, has been under construction for years. Prisoners, in such numbers as to make effective work impossible, covered it like pigeons on a grain mill. The Leavenworth officials, having no industries in which to employ their huge population, wisely prefer diffused to concentrated idleness.

It would be hard to find anything worse than the neglect from which our federal prisons suffer. The lack of industries and the over-crowding at Leavenworth and McNeil Island, Washington, are little short of scandalous, as is the federal policy of relieving congestion by "boarding out" prisoners to state prisons, with little concern for the type of prison to which they are sent.

If you go to the Missouri prison stay in the central yard, probably the most



Model of the new prison at Joliet

beautiful flower-decorated quadrangle in all our prisons. For elsewhere about the prison things are not so lovely. That building at the left is the Negro cell-house. In each of its cells, which are perhaps large enough for two men, six Negroes are quartered. The bucket system is still in use; the cell-house was built in 1868. Those narrow slits are the cell windows. Over behind that other cell-house is the tubercular ward, a long, low shack gazing out on a debris-cluttered waste. That building at the right is one of the best cell-houses in America. See the hanging flower-pots in the entrance. Down in the basement are the cells where three hundred pasty-faced drug addicts, lying all day in their stripes and in their idleness, are locked up, three in a cell. The prison is flooded with drugs, the officials say, and the dope even reaches this basement. That whir you hear is from the shops, where sixteen hundred men are making shoes and shirts and brooms and so on. In the dark clothing shops the men lean low over their machines under the dim and badly placed lights—one to every three machines. But there isn't work enough for the twenty-eight hundred prisoners even in this hive of industry, and the large idle company is locked up most of the time. Down there under the hill is the punishment section. Those men standing facing the wall were reported for breaking rules in the shops this morning, some of them soon after work started at seven o'clock. They will stand there until four o'clock, when the deputy will come to hear their cases.

GO to the Stillwater prison in Minnesota, the best prison plant of its kind in America with the best organized industrial system. Walk through it, one of the

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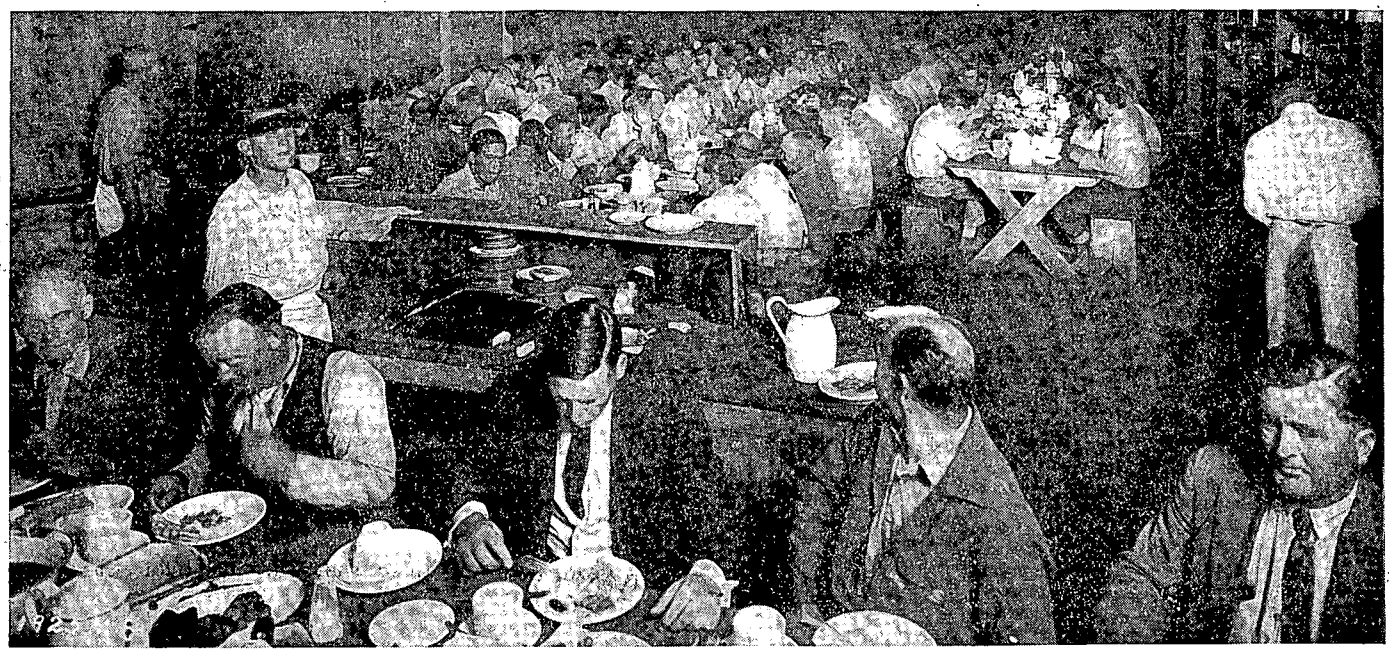

Dining room in a California prison road camp

forty thousand visitors who every year gaze in admiration down the clear thousand feet of spotless cells and gape at the rushing modern shops. It is one of the two or three profit-making prisons in the country. It pays the prisoners $100,000 a year in wages, it is self-supporting, and it shows a profit of $40,000 a year. It is organized as industrial enterprises are outside; it has proved that prison labor can be made to pay, at least in the manufacture of binder twine. It seems a shame to criticise so perfect a plant, so smooth a machine. Yet in this machine the human element seems lost; the whole prison seems directed to the production of goods, not men. Its discipline is rigid and repressive: through most of the week strict silence is enforced. On a Saturday afternoon, when most of the prisoners are in the yard, you will see some fifty silent men sitting with folded hands in the mess hall under guard. They have broken the silence rule. The rest of the country has much to learn from Stillwater in the matter of plant and industries; much too in the matter of discipline. The acknowledged leader in the former, this famous prison is fifty years behind the times in the latter. And, after all, prisons are designed primarily to turn out men, not binder twine.

Go to its neighbor prison in Wisconsin. Walk through the contract hosiery shops and furtive eyes will steal a glance at you. The prisoners are not allowed to look up and except for a few hours on Saturdays and Sundays, they cannot speak. We went to the punishment cells there and saw a man who had attempted escape. He had himself nailed into a packing-case and almost got away. Clothed in stripes, he was lying on a board close to the wall and was shackled by the wrist to a sloping bar set in the wall. Well, what of it? In the Illinois prisons the man in "solitary" is hand-cuffed to the cell door (hands waist-high) for twelve hours a day, and in Ohio he stands in a close-fitting cage. . . . Wisconsin, too, is one of the few self-supporting prisons in the country. The hosiery contract *is* profitable.

Why go on to tell of more of the things that are dark: of the bullpens in Oregon and Washington, of the dark cells and the bloodhounds in North Dakota, of the half-naked men in the malodorous punishment cells in Arizona?

THERE are some things on the brighter side, too. Some of them may be found in the very prisons I have been describing. There are the prison officials, scattered here and there over the country, who are sincerely trying to make their prisons effective training agencies, who understand human nature and are interested in their human product. There are the attempts that are being made here and there to make work and education and religion effective, to make discipline training for character as well as for conduct, to build for the day of release, to make good citizens as well as good prisoners. There is, for example, the excellent educational work at San Quentin, effective largely because of the co-operation of the Extension Department of the University of California. In the same prison there is the most complete and well-rounded medical and corrective surgical program to be found in American prisons. Out in the California mountains there is the best prison road work system in the country. Yes, San Quentin, the home of the jute mill, the ancient cells, the perennial riots, is preeminent in three things.

There is the psychiatric work at the Army prison at Fort Leavenworth, the diversity of industries at Jackson, Michigan, the honest discipline in the difficult second-termer Michigan prison at Marquette, the vision of the new warden in Utah, the warden's attempt to establish constructive reform measures in Arizona, the physical equipment of Stillwater and the new Joliet prison, the stimulating wage systems in a half dozen states, the responsibility given the prisoners in the Jackson brick-plant, and so on.

Brightest of all, there is the system of training for citizenship by community responsibility in Sing Sing and Auburn, established twelve years ago by Thomas Mott Osborne, and going on continuously under successive wardens, and the application of the same principle in Delaware and Maine and parts of many other prisons. This is the most constructive idea injected into prison disciplinary methods in the

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last twenty years, yet no idea is so completely misunderstood and so loosely criticised.

But in the main, throughout the prisons of the country, the industries furnish little training for an honest, self-supporting life, education is only a polite bow to the law prescribing so many hours of school per week for convicts, and religion as a regenerative force is almost negligible.

As for discipline, with the gradual weakening of the "treat 'em rough" idea few constructive measures have come in. Discipline today is largely mental lock-step: It emphasizes adherence to rules. It teaches men to walk chalk-lines which they will not find outside. It is satisfied with good conduct—good surface conduct—and does little to strengthen character.

"Well," my Eastern friends will say, "he has not come east of the Alleghenies with his dark tales." No, but only because I have visited the Western prisons recently and because so little is known about them. In the East the prisons are less involved in politics perhaps than in the West, there is less downright complete idleness, the disciplinary methods are somewhat more modern, but there the superiority ends. We have little cause for self-satisfaction in most of our eastern states. There is, in fact, not one prison in the United States today that is doing a complete, well-rounded job of fitting its prisoners for life outside.

Why do our prisons fail? For the reasons which stand out in the prisons I have described. Too many wardens are small-caliber men, purely political appointees, or they are "playing it safe" if they happen to have progressive ideas. Too many plants are historic relics, unsuited to the uses of the greatest regenerative enterprise we have before us today. The legislatures are too often ignorant of the prison, too responsive to the pressure of manufacturers opposing new prison industries, and too fearful of "reformers" proposing new ideas. Education lacks equipment and skilled direction and purpose; religion lacks conviction and fire. Discipline is a glue holding a lot of automatons temporarily in an upright position; it is not an elixir entering men's moral fibre to give them stability of character. And, last of all, in spite of the indeterminate sentence laws men still come out of prison more or less automatically, whether they are really ready to emerge or not. Until we have an indefinite sentence, under which criminals remain in segregation until they are fit for free life, we shall not have established the cardinal principle of the whole attack on the problem. When we have such sentences and make our prisons agencies to train men for citizenship, we shall reduce considerably the number of prison graduates who do honor to their alma maters by bigger and better crimes.

The socially minded people of (*continued on page* 634)

To Make Prisons Produce

What are the necessary elements of a prison system that might be effective? They are many; one can indicate only those which are outstanding as elements of primary importance. Among them are:

1. A new purpose in the prison: reform, not punishment; training, not simply restraining; good citizens, not merely good prisoners.
2. A new type of prison official, not simply a jailer, but a man fitted to direct a great human reclamation project.
3. Complete divorce of prisons and prison officials from politics.
4. Complete, not partial, abandonment of the old repressive system and the rigorous punishments that are a part of it.
5. A new type of prison plant, designed not merely to keep prisoners from escaping but to make possible education in the broadest sense. In many states this will mean a new location with space for farm work and other outdoor activities. The present very expensive type of cell-block, built on the assumption that practically all the population will escape unless heavily barred and walled in, can be largely replaced by more normal living quarters. The present type of construction, at great cost to the state, imposes on all the inmates restraint which only a minority need.
6. A system of discipline which will encourage self-control, and which will strengthen character, not merely produce good conduct in prison.
7. Community organization of the inmates in order that they may learn to meet the responsibilities of citizenship by practising citizenship in a restricted community, controlled and tutored by capable officials.
8. An educational system providing instruction in ordinary school subjects for those who need it, and trade education in the shops and in trade schools; both types of education to be under able teachers following the methods of successful adult education outside.
9. Religious work of the highest and most sincere type, directed by men of unusual conviction, personality and training.
10. Industries selected and operated primarily for their vocational training value and secondarily for their profit-making possibilities (the two are not inconsistent) with modern shops and machinery, so that men may learn to meet the conditions of outside industry. A producing, sales, and purchasing organization like those of private corporations, to lessen the burden on the tax-payer. Reasonable wages paid inmates, to make the industries more productive, to encourage habits of industry, foster self-respect, and help meet the problem of the dependent.
11. Use of large numbers of prisoners in farm work, road work and other outdoor occupations.
12. A health program maintaining a high sanitary standard, furnishing a healthful diet, employing corrective surgery, improving mental and physical health by sufficient outdoor exercise and wholesome indoor recreation, and supplying health education.
13. The use of mental tests and psychiatry and their full application, particularly to the problems of segregating the mentally unfit, work assignment, education, discipline, and discharge or parole.
14. The passage of indefinite sentence laws, either replacing or supplementing the present indeterminate sentence laws, so that prisoners will be kept in confinement until they are demonstrably fit for release.
15. Strengthening of the parole system and the appointment of sufficient agents to ensure thorough follow-up work and after-care of paroled prisoners.

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The Sieve of Justice

How Official Muddling Facilitates Crime: the Way to End It

By RAYMOND MOLEY

ONE of the first steps which must be taken in efforts to deal with the problem of crime, no doubt, is to reconcile what may roughly be called the sociological and the legal points of view. Whenever the subject is discussed we find this difference, that while the sociologist calls attention to causes and treatment, the legalist takes personal responsibility for granted and urges punishment. The latter thesis is based upon the deterrent power of punishment; extremists maintain that its influence as a deterrent grows greater with an increase in severity. "All wrong!" says the sociologist. "Punishment does not deter. Those who commit crime are, for the most part, pathological persons who need scientific treatment. Moreover, the roots of crime strike deep in a badly adjusted social order." And meanwhile crime goes merrily on.

I am going to assume here the truth of a part of each point of view. It may be old-fashioned to say it, but I believe that most people are responsible for their acts and I know that the existence of possible punishment deters. I believe also that most present day crime, within certain categories, is not caused by poverty or disease, either mental or physical. To say this is not to deny the contribution that medical science may make in the treatment of crime. Nor is it to assert that prisons are not breeding places of crime. And it should be clear to thinking persons that the ideas of probation, of differentiation of treatment and of a development of preventive measures are of prime importance.

What seems to be of supreme urgency, however, is that both sociologist and lawyer should recognize certain hard facts which in no wise interfere with the validity of the theoretical basis of either argument. These facts are that we still know almost nothing about the causes of crime; that we have yet to develop a scientific technique to enable us to recognize criminality in the very young; that our medical findings are so inadequate (or perhaps so imperfectly formulated) that they have not yet won public opinion to the need of permanent segregation of certain types of criminals; that parole in most states is not parole at all but a polite name for general jail delivery, that "experts" in criminal trials have lost public confidence; and—what is most important of all—that our process of justice is such a sieve that only the unlucky, the friendless and the inexcusably careless get to prison at all.

Briefly, my thesis is that the ease with which the criminal defendant beats the state, in that part of the process of justice which begins at arrest and ends with the trial, destroys the basic structure upon which either the sociologist or legalist must work to prove his theories.

STATISTICAL data are now available to prove this failure. The survey made by the Cleveland Foundation in 1921 indicated that the mortality of felony cases during the course of justice was very high. Of every 1,000 felony arrests in the year 1919, 127 were disposed of by the police, 143 were discharged or dismissed in the preliminary hearing, 139 were "no-billed" by the grand jury, 192 were "nolled" by prosecuting officers, 239 plead guilty, 42 were disposed of in miscellaneous ways, while only 118 came to trial. Figures of the Cleveland Association for Criminal Justice, regularly compiled since the survey, tell the same story. The Chicago Crime Commission finds similar lost motion in the cases it has surveyed, while the second monumental study of the criminal process, just being completed by the Missouri Association for Criminal Justice, indicates that the problem is the same in Missouri.

The following conclusions must be drawn from these facts:

1. Either the police are arresting many more of the innocent than of the guilty, or else many of the guilty are being set free.
2. The prosecutor is the keystone of the structure. His discretion counts more than that of judges and juries combined.
3. The jury has become an unimportant link in the criminal process. This is especially shown by the large number of pleas of guilty offered, usually through bargaining with the prosecuting officer.
4. The multiplicity of steps in the process is not only an excessive expense, but an excuse for a most deplorable tendency on the part of a participant in the process to pass the defendant on to the next step, merely to get rid of responsibility. (Like the passing of the queen of spades in the game of "Hearts.")

The chief reasons for the ineffectivenes of the process are three in number:

1. The multiplicity of protections enjoyed by the defendant under our laws of procedure.
2. The inefficiency of prosecuting officers.
3. The influence of politcal "pulls" in diverting the course of justice.

A comment upon each of these factors will emphasize their significance.

AN examination of criminal procedure, especially as it exists in the state courts, indicates a large number of specific advantages which the defendant enjoys over the state. There are no less than thirty or forty legal provisions which favor the defendant. To mention only a few:

1. The defendant may insist upon a speedy trial; the state may not.
2. The defendant may hear the state's case in the preliminary hearing; the state may not require the defense to be shown.
3. The defendant may see names of state's witnesses; the state may not see the defendant's.
4. The defendant has a distinct advantage in the method of selecting a jury.
5. The state may not comment upon the defendant's failure to testify.

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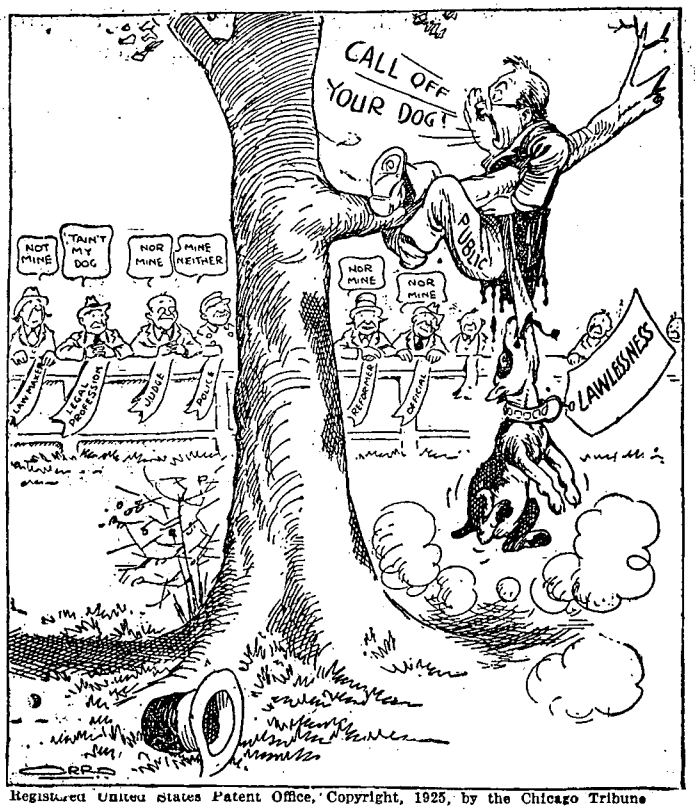
6. The defendant may appeal a conviction; the state may not appeal an acquittal.

These and many other advantages place upon the state in a criminal prosecution a handicap which, in a difficult case, is too great to be overcome.

THE Cleveland Survey speaks of the prosecutors who came under its observation as being in a state of "serial unpreparedness." They were inexperienced, under-paid, careless and overworked. They had no adequate office facilities. They had no investigating machinery worthy of the name. They entered the trial of cases of which they knew only a smattering of the facts. Except in the more sensational cases, they were careless and ineffective in argument.

The prototype of the Cleveland prosecutor is found in every jurisdiction. Prosecutors are usually elected. They are young—generally in the twenties or early thirties, the prosecutor's office being the first rung of the political ladder. They are badly paid: the average annual salary of county prosecutors throughout the United States is probably well under $4,000. The counties allow them scant assistance and very limited facilities for their work. The indispensable adjunct to effective prosecution is some sort of investigatory service, and in all except a few large cities there is absolutely no provision for such assistance. The rural prosecutor must depend upon the sheriff, and this official, being paid on a fee basis, is reluctant to give his time, or that of his deputies, to a work which is feeless. The prosecutor thus enters the trial greatly handicapped. Across the table is usually an experienced and well-prepared counsel for the defense, adequately compensated in cases where the accused is a real criminal. This defense counsel is often himself an ex-prosecutor whose legal experience is years longer than that of the representative of the state. It is not strange, therefore, that the state so often loses. What is remarkable is that there are even a few successful proscutions.



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The responsibility duckers

"I SHOULD WORRY!" NOTHING HAS EVER HAPPENED TO ME—
BANK ROBBED
ANY DAILY PAPER
BANK ROBBED
THREE MEN KILLED IN BOOTLEGGER WAR
ANY DAILY PAPER
ROBBER KILLS CASHIER
POLICE STATION ROBBED
ARMED GUP MAN SHOOTS VICTIM

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Their best friend

THE factor which more than any other contributes to the abject failure of the criminal process is the influence of spoils politics. It spreads through the process in all of its ramifications from the "little green house on K. Street," where Harry Daugherty and Jess Smith were shown by the Wheeler investigation to have transacted business pertaining to the United States Department of Justice, to the court house in the most rural and remote county in the land. Jess Smith, it will be recalled, was Daugherty's confidential political agent. Nearly every large prosecutor's office has its "Jess Smith" who "arranges" things. People with objectives talk with him. He "sees what he can do." The official himself can pretend innocence. He may, if things are distressingly threatening, repudiate the political agent. But usually what "Jess Smith" undertakes to accomplish is done.

This political element is inevitable, from the nature of the prosecutor's office as we understand it to exist in American practice. We have accepted it, not as a stern instrumentality of justice, but as a place where political careers have their beginning. Innumerable successful American politicians have started in the prosecutor's office. There Robert M. La Follette began nearly fifty years ago, and now, in the same county, his son Philip is beginning. "Jim" Reed, while a Missouri prosecutor, made many of the friends who still send him to the Senate. We cannot have everything. Perhaps we shall have to decide which is most important—a school for young statesmen, or an office for law enforcement.

There are other places in the criminal process, as well

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as in prosecution, where the influence of politics is a destructive factor. In a recent investigation of the coroner's office I found that where a Democratic coroner held office Democratic undertakers were called and Democratic doctors conducted autopsies. The office existed, not to determine responsibility for homicides, but to repay political favors.

IN addition to these three factors there are other less important but none the less real influences working in favor of the criminal. The bail bond system is one of the most noteworthy of these. The so-called "professional" bondsman is an inevitable adjunct to the criminal courts in every city. He signs bonds for all who come with ready cash. He squeezes from the relatives of poor defendants large cash fees, and assesses the highly-financed criminal "ring" a generous allowance. In addition to acting as surety in his own right he becomes the agent for many other property owners, who sign bonds which he solicits and for which they pay him a commission. After the gangster is released on bond pending trial, a series of new hold-ups tell the sophisticated that the bail bond fees, like the protective tariff and other species of indirect taxation, are being "passed on" to the general public. One is reminded of a recent cartoon of Mutt and Jeff, in which Jeff, acting as a judge, directs that the defendant, who is short four dollars of his fine, be turned loose in the crowd for the purpose of acquiring the deficiency.

In most states a bail bond does not, except in theory, bind anyone nor anything. In almost all cases, there is no record whatever to indicate whether the bondsman has pledged himself beyond the value of his property. New bonds are accepted when the property used as security is already on bonds to the extent of many times its value. If a bond is forfeited it is most difficult to collect. There must be a long-drawn-out legal conflict for which no one is willing to assume the responsibility. Only a very small fraction is ever collected. Studies of this problem, in fact, show that the proportion of forfeited bonds collected is not over 2 or 3 per cent.

IN seeking remedies for the conditions which prevail, we meet first the proposal that rules of procedure be so altered as to deny the defendant the advantages he now enjoys. This could, of course, be accomplished rather easily by state legislatures, although it might also involve the alteration of certain state constitutions. The conservative lawyer or business man is usually willing to go far in such a reorganization, because he is impatient of legal provisions which seem to protect or "coddle" the defendant. To deny the defendant many of his present advantages would probably reduce greatly the mortality of cases between arrest and conviction, and consequently would increase the number of convictions. This is not to say, however, that the ends of justice would be served in the same proportion. It would merely become easier for the present prosecuting machinery to secure a conviction, while such a denial of advantages might easily go too far and seriously endanger the lives and liberty of innocent people. But it is quite likely that the present agitation in many states will ultimately direct itself to such changes in procedure, ignoring the need of improving the quality of prosecuting and judicial personnel, and of eliminating politics.

The way to prevent this undesirable development is to focus attention upon the need of a higher grade of officials, both prosecutors and judges, and on the necessity for the elimination, so far as possible, of politics. The right sort of prosecutor is not interested solely in securing convictions. He uses his great power of discretion in terminating as well as in expediting prosecutions. This is especially true if he is removed from the annoyance of local politics.

We should recognize that the judicial process is a state function. Judges and prosecutors of the lower courts should be appointed by a state authority. The prosecuting function should be centralized. A state authority, with adequate investigating facilities at his command, should posses the power of supervising and assisting prosecutors. The tenure of prosecutors should be secure against changes in the political administration of the state, and their compensation should be much higher.

To bring about these changes will require a fundamental change in the attitude of the public towards the administration of justice. Political parties will keep hands off this species of spoils—they already do so in some cities and states—if they know that there is abroad an opinion which is quick to resent political interference with criminal justice.

Such a change in public opinion will not be achieved in a short time. The free and easy habits of our courts are fairly characteristic of a well-grounded civilization. Meanwhile, we must be tided over by some half-way measures. One of the best of these might be the intelligent activities of some citizens' agency, with facilities for constant observation and publicity concerning the operation of the criminal courts. The Chicago Crime Commission and the Cleveland Association for Criminal Justice are accomplishing just this through maintenance of card records of all criminal cases, with periodical publicity. The purpose of these citizen efforts should be to put sufficient pressure upon the existing personnel to bring it to greater effectiveness. This has measurably succeeded. But it cannot permanently succeed. We need ultimately a new brand of officials and a new conscience to support them.

Brown in the Chicago Daily News

One place they can't get him out of

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Favorite punishments in the sixteenth century, when "firmness" was in favor

Does Punishment Pay?

By CHARLES PLATT

THERE is today an emotional demand for an increased punishment, for an increased pain in punishment. It is the to-be-expected reaction of a public that has become awakened to an injury. There is a desire for revenge, a wish to retaliate. No response could be more natural, more elemental. It is the response of the undeveloped, it is the response of children, of all who have not yet attained to social consciousness and control. Rationalize it as we may, call it "defence of society," call it "justice," it remains in truth but an exhibition of primitive egoism, unthinking and socially foreign—more foreign now than ever before, now that we have arrived at some degree of social knowledge.

In the old tribal days, undoubtedly the first thought of the group socially was to rid itself of its undesirables, to eliminate them as fast as they could be discovered, to drive them out. And this was done. The man not wanted was stoned to death or driven from the group by a pursuing, howling mob. That was the end of the offender. The idea was a good one. It worked for some thousands of years. Then gradually came a change, a change we like to think of as marking a growing sense of humanity, but which probably had in it, too, a yielding to other considerations, economic and political—the children of the obnoxious ones and the attitude of neighboring "states" were forced into consciousness. In the days of strong tribal unity, the tribe was all in all. The children belonged to the tribe, and when their parents were driven out these children benefited along with the rest—they were then biological orphans but they suffered no inconvenience. Then the tribe grew and subdivided, became more complex and unwieldy, and the sense of tribal responsibility correspondingly lessened. The unit family now became more important. The children and other dependents of the exiled or killed offenders now became a burden to the state. The tribe had lost its sense of ownership. And international politics entered in. Tribes began to encroach upon tribes, neighbors became closer neighbors. The undesirables of the group no longer passed out into the desert to perish, they passed over to the next group, where they were not always welcome. They are not now—we turn them back at Ellis Island.

Here was a serious situation. Here were people no one wanted, and yet they could not be got rid of—to kill all or to exile all seemed equally repugnant to the changed state of affairs. "Well then, let us make them suffer!" Here was a pleasant thought, a most welcome one, not social exactly, but certainly agreeable. At once pain and disfigurement began to play the principal role. The wits necessary for a further social solution of the difficulty not being there, a reversion was made to pre-social passions. All now was going nicely. And then came along some meddling reformer—and the prison was proposed. "Instead of just locking people up until we get ready to punish them, why not keep them locked up and consider this their punishment? Why not build places of exile within our own boundaries?"

Here was the happy thought of long ago, and up to date we have hardly begun to think of anything better. Pain

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and disfigurement, being so satisfying psychologically, of course remained for a long time the prevalent practice, and the prison idea, like other reforms, could develop itself only slowly—it reached an acceptance, a reluctant acceptance, less than two hundred years ago—but the idea was there. It is now very old, and huge hosts have been given all the advantages of its application.

And yet, somehow, this idea has not worked. Crime has continued. Neither prison nor suffering has had the least apparent effect upon the progress of crime. Such change for the better as there has been has not even kept pace with the general cultural advance. What is wrong? It will be wise to ask questions. The protection of society is, I presume, the main issue sought. How far are we now protecting society? Is the idea of incarceration psychologically correct? Is it useful for all of our delinquents or only for some? Do our prisons make men better or do they make them worse? And if they make them worse, how then are we protecting society by putting men in them?

THE prison is now explained, is now apologized for, by three arguments: first, the old one, that of purifying the group by the removal of its contaminating elements; second, a new one, that of the deterring effect of this unpleasant isolation; and, third, a vain one—vain now—that which looks to the prison for the reform of the prisoner. Let us consider the first two of these expectations. The third we may omit—it applies only to the possibilities of the future; in the present it can be regarded but as an efflorescence of optimism.

Consider first the removal of the criminal from society—superficially such an excellent idea. Only remember that the man so removed does not stay removed, that after a term he will be out again, out in society. At once we face a new problem. It now becomes of first importance to us what happened to this man while he was in prison. Here is something, not at all, as the unthinking hold, of interest only to the prisoner—here is a something of social importance. And never mind now the old and still unsolved difficulties of the prisoner's dependents, their temptations and burdens—think only of the prisoner himself.

A lad commits an offense and is "sent up." He is put in an atmosphere not only repressive of all youthful instincts, but also redolent with vice. When he comes out will he be any the sweeter, any the better fitted for the social obligations? Freud has demonstrated the mortal effects of brutal repression, and common sense tells us that to associate a youth with criminals will not likely improve him. We certainly then cannot expect to have benefited the youth by putting him away—have we benefited society? Here was, we will say, a candidate for the criminal life, though quite probably with no real criminal ambitions, and we have put him where only his worst instincts will be given a chance for development. We have put him in a school where the lessons, however unpleasant they may be, cannot be avoided. We have given him every opportunity to acquire an anti-social attitude. We have stained his mind and we have injured his body. We have removed him from the working world at a time when, if he is ever to acquire them, he ought to be laying down habits of industry. We have broken his spirit, impressed him with his social isolation, taken from him all possibility of cantact with good people, forced him to find friends among the bad, and, finally, we have given him, like as not, a determination for revenge. And then we have let him loose, we have graduated him. What a protection to society! We shall not care to meet this product of our forethought alone on a dark night—but we may.

THEN consider the argument of deterrency—that the prison experience will deter the prisoner from ever again committing a crime, and that the fear of imprisonment will prevent others from doing wrong. It is proposed to make capital of fear. It is a good idea, it has real value. No one mentally normal, no one not hopelessly insane, no one above the mental grade of an idiot, but will be deterred from wrong doing—given pause—by the thought of punishment. A forbidden act in contemplation may lose its meretricious attraction when we consider it in relation to all of its possible consequences. But are we not assuming here a degree of social culture, as well as a thoughtful deliberation? How about the children, the adolescents, the main sources of our criminal supply? How about those products of an unfavorable environment whose anti-social attributes have been strongly developed? How about those who are drawn into crime by their associates? How about those who are driven into crime by their necessities? What man is there who on occasion will not take a chance when the rewards of success seem to him sufficiently great?

But aside from all this, after all, we punish primarily in order that the experience will deter the guilty one from repeating his offense. Does it? Well, 60 per cent of our prisoners today have had at least one previous imprisonment. The idea did not work with this 60 per cent. Here is a woman, eighty-one years of age, who has been in prison sixteen times. The idea did not work with her. Will fear of punishment, fear of offending society, fear of becoming a social outcast, keep straight those who have already become social outcasts? Fear is but a transient emotion, it may soon be replaced by a desire for revenge, a something far more enduring. To many a convict this secondary reaction becomes an obsession, compelling his thoughts and his dreams; it easily over-rides all fear; when he emerges from his cell, it guides all his actions—there is left of his fear but the snarl of a new hatred. Said recently the British Home Secretary, the head of the British penal system: "Prison is a great deterrent, but not when once you have been in one."

But even when there has been no such hatred of society engendered, remove a man from the responsibilities of life, reduce him for several years to the irresponsibility of being just a *number,* an automaton, a cog in an evil machine, what happens to him? Suppose that he does make some vague effort toward getting back into life's competition—he finds himself quite unable. His initiative has been destroyed. He drifts from place to place, he cannot stay put; he loses the sympathy and interest of the few, if any, who may have tried to help him, he exhausts their patience, and finally he becomes a hopeless wanderer, prone to all the offenses of such. Or rather, this is what he becomes if he is of the better sort. If, on the other hand, his standards were low, as they probably were, then he goes back to crime as soon as he is released.

The argument for deterrency, then, is not without its negative. One of the best statements of it that I know is that of Maxwell, in his *Le Crime et la Société.* Maxwell is by no means indifferent to the harm of the prison but he still believes in its worth. He holds that the fear of the prison is an important adjunct to the other inhibiting

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influences, and that, if it be removed, the totality of inhibition must thereby be just so much reduced. I believe that he is wrong—and here is the crux of the whole situation. I believe that the prison experience will itself so greatly decrease those "other inhibiting influences" as to more than offset its own value. The old moral and social inhibitions will become hopelessly blunted or destroyed. And, at, the same time, the tendency toward crime, the impulse to commit crime, will be greatly enhanced. Is it not then possible that this lessened general inhibition plus this increased criminal desire may become more important than the original deterrent fear? And this fear, too, remember, is bound gradually to grow less, with each familiarizing experience.

We have in the balance of thought, on the one side of the balance, moral and social inhibitions and fear, and, on the other, the desire to commit a crime. We decrease the weight of the moral and social inhibitions, and we increase that of the desire. Which way will the pans fall? The answer, of course, will be a matter of opinion, it will be determined by prejudice—a demonstration here is quite impossible—but, it seems to me, there is a reasonable expectation. At any rate, it should be evident that in thinking of this question one should take into consideration all of the factors. One should not be content with resting upon the plausibility of the deterrent idea in illogical isolation from all others.

WHAT is the outlook for our criminal problem? Life is yearly becoming more complex, more difficult to adjust to—and crime is but a failure in social adjustment. And whatever may happen in the way of reform, there will ever remain, it is likely, a residuum of society that will need to be segregated. Prisons we must still have. Our wisdom as yet has not been able to carry us beyond them. Many there are who must be locked up, and not a few there are who should be locked up for life. We reformers here would be more hard-hearted than most of our critics. We do not know what else to do with these people. We are at war—or they are—and we must make prisoners of them or they will hurt us. Indeed, punishment, if decently carried out, may prove to be of the highest wisdom. With elemental people, such as are so many of our criminals, it may well be that elemental methods are the proper ones. But, nevertheless, all this being so, there is still a vision which has been vouchsafed us, and we should regard it. And that vision is this: Education, guidance, is what we rely upon for the prevention of delinquency; a special education, a special guidance, may equally be relied upon to alleviate it or cure it.

We are today getting rid of the mill-stone of the free-will concept. We still egotistically try to believe in free-will, but, fortunately, in the social field at least, we now act upon the concept of determinism. We know that each of us is capable of education, possible of diversion from that wrong which left alone we might so easily arrive at. We know the especial difficulties of the poor and unadvantaged—how hard it is for such to make good social adjustments. We know the force of the old animal instincts, the old egoistic compulsions, and we know how necessary it is that these shall be guided into safe expressions. And we are applying this knowledge today. We are working for a better childhood, for a better start in life. We are, too, in this, making some real progress with our criminal problem—we are weakening the army of delinquents by cutting off its recruits. The Child Guidance Clinics, the National Committee for Mental Hygiene, are providing with skill for a greater normalcy in the next generation.

But why not apply this same knowledge to our delinquents themselves? Why not, for example, decide that our prisons shall be no longer just places for punishment, but that they shall, instead, or in addition, be places for education? It will be a wrench for most of us to give over our craving for vengeance, but if we can accomplish this we may be well satisfied with the result, with the advantages that will accrue both to society and to ourselves. Let us make our prisons such that they will turn out a better product. It can be done. We have now houses of detention for children that turn out far better children than they receive—the idea and the practice need but to be extended. It is not really necessary to educate for the criminal life—we could, if we would but use the brains we now have, educate rather for society.

THERE is another change we might make—especially important now that our prisons are as they are (and as they are, they are likely long to continue). Why give the devastating shock of the prison experience to all who may happen to offend? Why not be discriminating? Why not introduce foresight into our practice? When in the judgment of the court an offender does not seem to need prison, when he does not appear to be truly as yet a hopeless menace to society, when he has evidently become involved in crime through accidents of circumstance, when there seems a real possibility that he may yet be regained to a useful social life, then why not give to this offender a chance to recover? Why not assign him to the care of some able person who will understand his problems and can assist in their unraveling? This is Probation. A boy appears in court. He has committed an offense against the law. Never mind what the offense was—that is a trivial detail. The questions now are, or should be: Why has this boy done this thing? What is his condition, mental and physical? What has been his environment? Can he be diverted from the repetition of wrong doing—are the conditions that determined his act in any way removable? In short, is it worth while trying to save this boy, or shall we shove him into the discard? And it is the probation officer who has been studying the case who will enable the judge to reach a wise decision.

Is this not better than an indiscriminate consignment to a jail or a reformatory? Shall we hastily take away this boy's freedom and thereby make of him, almost inevitably, a burden on society for the rest of his life? Does that seem like wisdom? The probation idea would appear to be better. And the probation idea works. It works at least whenever it is intelligently carried out, and there is today an association devoted to the seeing that it shall be so carried out—the National Probation Association.

It not only works, but it pays. Consider the proud record of Massachusetts, the birth place of probation—not a prison cell built in over twenty years, many cells now vacant, the prison group reduced greatly, and this in twenty years of a constantly growing alien population; the Fall River jail closed, the Taunton and other jails closed; and, with it all, a remarkable freedom from those major crimes which have so overwhelmed other sections of our country. It costs over four hundred dollars a year to keep a man or boy in prison, it costs much less than a tenth of this to give him efficient probation. And then remember that those who leave prison will probably continue to lay (*Continued on page* 643)

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The Bandit's Progress, or—

A Repeating Pattern of Crime and Punishment

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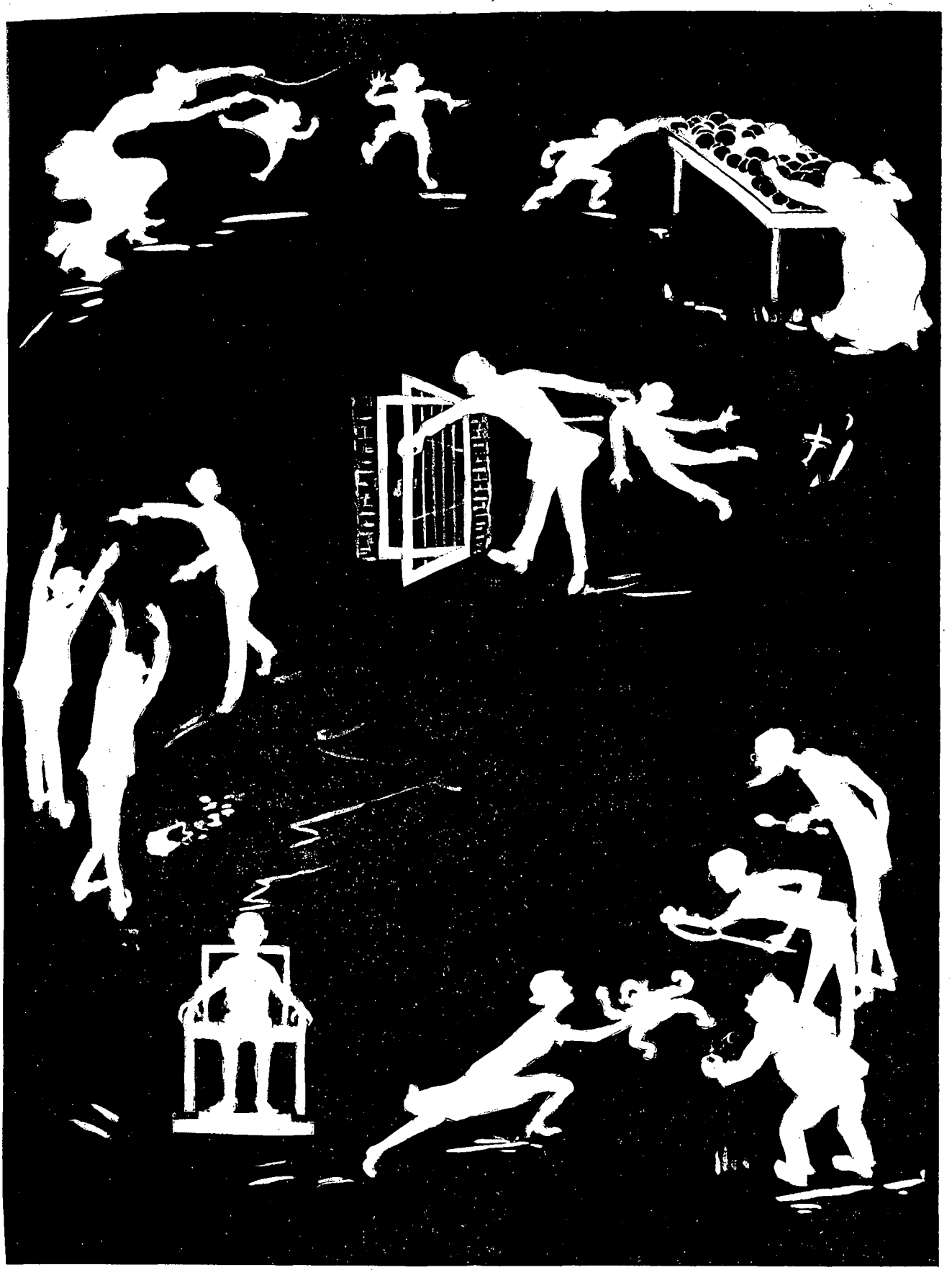
If Spanking Fails, Try Psychiatry

Scissor Pictures by MARTHA BENSLEY BRUÈRE



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Vengeance—or Vision?

A Psychiatrist's Challenge to Lawyers, Jailers and Politicians

By KARL A. MENNINGER, M. D.

ALL human behavior was once accounted either good or bad. The "good" included the pious, the proper, the conventional, the routine, the harmless, and the inconsequential. The "bad" included the heretic, the improper, the unconventional, the unusual, the delirious, the anti-social, and the not-understood.

Ultimately the "bad" became subdivided into two groups, the inexplicable and the explicable. In the one group were placed those who did strange things. The evil they wrought brought no evident profit to themselves. In damaging society they gratified no familiar desires. Their conduct became uncontrollable, they expressed baseless fears, they mutilated themselves, they looked upon their best friends as enemies, they attempted or committed unprovoked murders, they set fires gratuitously, they stole profitlessly.

Because their conduct was mysterious, such people came to be regarded with a certain awe, and the prophets proclaimed it inhuman to punish them. Eventually too, it was discovered that drugs would abate some of these aberrancies. They were therefore relegated to the doctors who were told to do with them what they would and could. To justify this relegation legally, the term "insanity" was coined and impressed into legal use. Those who were relegated, certified, disposed of to doctors, were to be known as "insane."

The other group of the "bad" did things apparently easier to understand. They did what nearly everybody else at some time had done, or had desired to do, but which conflicted with social convenience and comfort. They stole useful and valuable things such as most men might covet. They took revenge upon those who injured them, and if they murdered, the victims were their enemies. Though these things were forbidden by tradition, religion, and law, they were instinctive with nearly all members of the race. Even the "good" must struggle against the same temptations, and every normal adult remembers more or less painfully his juvenile offences in the same directions, though his childish thefts were trivial and his murderous impulses did not result in killing.

Recent scientific discoveries indicate the improbability that these "obvious" offences are committed for the obvious, the apparently obvious motives. Motivation of conduct is found to be much more largely unconscious than conscious, and the conscious explanations are apt to be superficial rationalizations. Nevertheless, the offenses committed are of a sort which the public *thinks* it fully understands, and this in the long run decides its attitude toward the offenders.

Society, as we have seen, came to consider it inhuman to punish the wrong-doing it did not understand. But a host of avengers arose to clamor for the blood of the wrong-doers whose conduct seemed more comprehensible. It was as if each one desired to crush someone else for yielding to what the avenger was so fiercely struggling against in his own soul.

To resume: the sinners whose sins are inexplicable to laymen are officially labeled "the insane"; those whom we think we understand, judging intuitively by our own struggles, are officially labeled "criminals." The former have been accorded increasingly efficient scientific study and treatment; the latter have been traditionally treated by punishment.

Both the "insane" and the "criminals," so labeled, have been increasing in numbers more rapidly than the increase in general population. It is significant to observe the difference in the handling of the two resulting social problems. The increase in mental disease has been met with a scientifically planned program for the promulgation of mental hygiene; the increase in the allied type of misconduct has been met with hysterical squawking and fatuous preaching about the "crime wave." Amateur criminologists have advocated ten thousand remedies for the cure of crime, from compulsory Sunday school attendance to the abolition of automobiles, cigarettes, and rolled stockings. Out of thousands of articles on the subject in current American literature there have been only a smattering which have in any degree evinced a comprehension of the scientific bases of human conduct.

PUNISHMENT of criminals is theoretically advocated for one or all of three reasons. It is supposed (1) to reform the criminal, (2) to protect society, (3) to deter others.

It is hard to believe that anyone at all familiar with jails and prisons supposes that confinement in them reforms the criminal. He knows that at the end of their terms prisoners are likely to be more dangerous men than they were at the beginning. Nearly every warden says so, and all but the most somnolent judges know it and regret it.

That society is entitled to protect itself from the depredations of evil-doers by confining them somewhere, no one disputes. But a prison term comes to an end at the expiration of a fixed sentence, or earlier at the whim of parole officers actuated by sentimental or political considerations or by the administrative necessity of emptying overcrowded cells to make room for newcomers. Neither the arbitrary length of the sentence fixed by statute, nor the date of parole capriciously bestowed, corresponds with any change in the prisoners by which, if a dangerous man, he becomes a safe one. Hence we have the tragi-comedy of the offender, sentenced for a fixed period, serving a small part of it, and repeating time after time the offense from which society is supposedly protected by the jail.

That the spectacle of punishment may deter some persons from committing crime is conceivable, although it has not been scientifically demonstrated. But obviously it does not deter all persons, or crime would have ceased long since. The criminals now occupying our prisons were not deterred. Only a casual inspection of any prison population should

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convince the thoughtful that the persons whom punishment is intended to deter are incapable of the proper appreciation of deterrence. In other words, mentally intact persons may indeed be deterred by certain legal threats (it is a question how much). But it may not be at present the mentally intact persons who commit crimes, and the mentally impaired are notoriously incapable of ordinary reactions of social adjustment.

In serious offences there is another element, itself ordinarily powerful enough, perhaps, to control those capable of being influenced by deterrents of any sort. That is the profound feeling of social disapproval, involving moral disgrace, manifested toward "crimes" really considered grave. Most of us are aware that our conduct is restrained in many particulars by a sense of social approval, even in fields not covered by statute law at all, though some people are indifferent or rebellious to this kind of control as well as to law. There are some legal offences, on the other hand, which carry no moral stigma with them, such as minor violations of the traffic laws. It is only in these cases, relatively unimportant and outside the field of the usual discussion of the crime problem, that the specific penalty has an independent restraining influence, be it great or small.

It would seem, then, that present modes of punishment actually accomplish none of the things they are supposed to do, or at any rate, do not accomplish them so well as some other system might. The reasons usually given to justify "punishment" do not explain why it exists. They serve only to conceal the truth, that the scheme of "punishment" is a barbarous system of revenge, by which we "get even" with the criminal.

SCIENCE is not interested in revenge, and science is notoriously opposed to accepting traditional classifications. And psychiatry, the branch of science concerned with aberrant behavior, has no respect for such stratifications of human behavior as "good" and "bad," "criminal" and "insane."

Once it was sufficient to diagnose an illness as "the fever"; now medical science knows scores of fevers, each of different causes, course, and complications. Similarly the psychiatrist cannot regard "theft" or "murder" as a diagnosis; these are single symptoms appearing with other symptoms in a variety of groupings.

Originally, it is true, the psychiatrists were chiefly concerned with those types of wrong-doers who had been labeled "insane" by the law-makers, and gathered into special institutions. But when they had studied this material according to scientific method, they discovered no such partitions between the "insane" and the "criminal" as had been erected. They found that the types and trends of abnormal psychology extended far out from the "asylum" into the court-room, the school, and even into the home. They found their task as definitely defined in the terror-ridden child as in the maniacal youth, as much in the melancholy and unstable mother as in the suicidal or homicidal father. They found their experience and technique equally applicable to the irascible employe, to the retarded school-child, to the unhappy suspicious husband, to the deluded and hallucinated wife. The psychiatrists, face to face with the legal partitions of the misbehaved, found they had no technical interest in these partitions or general agreement with them. As scientists they are concerned with *all* the unpropitious trends of human character, with all acts, thoughts, emotions, instincts, and adaptations, socially and individually adverse. To the psychiatrists there are no "criminals," and no "insane."

THE scientific attitude as shown in psychiatry must sooner or later totally displace existing legal methods. Formerly doctors treated patients, not by applied intelligence, but by precedents established by Hippocrates, Paracelsus, and Galen. The doctors have now left this method one hundred years behind them; must the lawyers still continue solemnly to apply medieval stupidities in the name of "established precedent," "public policy," and other mouthy archaisms? Many of the ablest lawyers are earnestly striving to better this situation. But a large share of them, unfortunately, are indifferent to the problems of criminal procedure, because they never practise in the criminal field, and have no interest in criminals as individuals.

Meanwhile, the declamation continues about the travesties upon *justice* that result from the introduction of the psychiatric method into court. But what science or scientist is interested in *justice*? Is pneumonia just? Or cancer? or gravity? or the expansion of steam? What criteria of "justice" can be applied to a broken arm or a weak mind? And to what good end? The scientist is seeking amelioration of an unhappy situation. This can be secured only if the scientific laws controlling the situation can be discovered and complied with, and not by talking of "justice"; not by debating philosophical concepts of equity based on primitive theology.

THIS brings up the conception of "responsibility" with which the psychiatrist is often faced but with which also he is unconcerned. He has no idea what it means, although he is constantly asked to testify concerning it. The psychiatrist asks not, "Is this man responsible?" but, "Of what is he capable or incapable?"

Responsibility in the legal sense means punishability. The sense in which responsibility is used is an echo of the antiquated legalization of primitive and infantile reactions known as the talion law. In other words, "He hits me, so I hit him" (in spite of the scriptural adjuration that vengeance is the Lord's). No scientist has a moment's consideration for such emotionally determined policies. To say that they effect nothing is redundant.

The idea of responsibility runs back to the practices of primitive religious systems, and is founded on the mystical concept of atonement. Every transgression had to be compensated for by some tangible sacrifice, if not by the transgressor at least by some kind of scape-goat. For every offence, somebody had to pay.

There was a time when even inanimate objects were held to this kind of accountability. If a man tripped over a chair and injured himself, the chair was "responsible" and must be punished—by being burned or broken. Until comparatively recent times animals were held responsible for injuries they committed; they were tried and convicted and formally sentenced. But ultimately inanimate things and animals came to be excepted from the ritual of responsibility; and slowly but progressively children, idiots, and finally all the "insane." Various curious tests then had to be decided upon to determine the "responsibility" of persons suspected of "insanity." Once they were compared in appearance and conduct with wild beasts. A later test was comparison with the mentality of a 14-year-old child. This was actually

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the criterion of "responsibility"! Current today in some states is the "right or wrong" test, which undertakes to determine whether the individual knows the difference between right and wrong or knows that his act is one regarded as wrong. It persists notwithstanding general knowledge that people are actuated by various compulsions to do things they themselves regard as wrong in the most shameful sense. The capacity to feel remorse does not imply power to control conduct.

The legal problem of responsibility evidently involves the philosophical problem of "free will." Philosophy still debates the difficult issues of the question, and science can hardly pretend to give a final answer to them now. But the law stubbornly maintains that the question is closed. According to the law, all persons of certain categories possess absolute freedom of will, and all persons of other categories possess none. Neither science nor philosophy can accept such a conclusion.

The scientist does not wish to participate in the ritual of "punishment," though he has a professional interest in observing how it gratifies the craving of the crowd for atonement through vicarious suffering. For his patients the psychiatrist seeks, not punishment, but treatment. This, in a sense, is an "inhuman" attitude, in that it is a departure from the instinctive mechanism that rules most of humanity; the clamor for vengeance is more "human." But treatment may sometimes be as painful as the sacrifice prescribed by the legal ritual. Opening a boil or setting a fracture may be painful, and the psychiatrist, too, may prescribe painful treatment; but it is never punishment.

THE advantages of a changed attitude toward criminals seem too obvious to elaborate. With every prison in the land half-filled with repeating offenders, there seems to be justification for current newspaper alarms over the "crime wave." So long as offenders are sentenced according to the book instead of studied according to principles, the results will continue to be as inadequate as if doctors prescribed twenty days of aspirin for every case of pneumonia, six months of castor oil for every cancer, or five years of calisthenics for every case of imbecility.

The first step in a new program for handling "the crime problem" is a change of public opinion in regard to the aims of psychiatric method as applied to the prisoner. This is being rapidly accomplished by psychiatric clinics operating in association with criminal courts in various cities, and by the ardent work of many agencies such as the National Committee for Mental Hygiene, the Committee on the Prevention of Delinquency, and the Commonwealth Fund's Child Guidance Clinics.

The next step is the alteration of the laws governing criminal procedure. The American Psychiatric Association and the American Bar Association are both at work on this problem, although, unfortunately, they are very widely separated.

Such agencies as the clinics referred to above are greatly handicapped in their practical achievements by the obstructing legal restrictions. Even after a psychiatric clinic, for example, has been established in connection with a criminal court, the laws in many states are such that unless the clinic can find a condition which throws the accused into a particular category, insane or feebleminded, there is little difference in the handling accorded him by the representatives of the law. The psychiatrist may, for example, be able to account for the misbehavior in several definite and environmental and personal factors, some or all of which are subject to correction, and he may be able to see with some definiteness that this case could be cured by a more rational and more effective method of treatment than incarceration in a jail. But unless the judge wishes to presume greatly upon his bench parole privileges and risk inciting the mob to put an end to what it might consider a sentimental indulgence of offenders, there is nothing to be done about it.

THE trend of progress, meanwhile, is evident in many ways: for instance in the Wickersham report and the Massachusetts statutes of 1921. The recommendations of a Joint Committee of which George W. Wickersham is chairman, following a survey of the county jails and prisons of New York in part, briefly, are these:

> County jails should be abandoned as places of punishment. All prisoners should be sent to clearing-houses for a diagnosis of their conduct disorders and for classificaton. Thereafter they should be confined in specialized units of a diversified institutional system, including industrial farms and vocational training schools. Sentences should be made truly indeterminate. No paroles should be issued until the prisoner's problem has been sufficiently well met to warrant the belief that he will adapt himself in the community. Even after parole the prisoner's activities should be supervised by a psychiatric social worker.

Massachusetts has enacted a law making psychiatric examination a routine procedure for those indicted for a capital offence or for those known to have been indicted for any other offence more than once, or to have been previously convicted of a felony.

Much experimental work remains to be done, both legal and medical. It seems certain, however, that an entire shift of attitude will be necessary rather than the various maneuverings of criminal procedure that are sometimes advocated. One immediate practical step in the right direction could be taken with a minimum of legislative and administrative readjustment: before paroles are issued, prisoners should be examined by psychiatrists, and if evidence of mental disorder or defect likely to cause a recurrence of misconduct is found, paroles should be denied. Those who confuse the scientific point of view with a maudlin sentimentality may see from this that the period of treatment for many offenders would doubtless much exceed the terms of "punishment" fixed by the law.

ULTIMATELY there will be no important administrative distinction between "asylums" and "jails." Both will have lost those atrocious names. Both will be institutions under state jurisdiction and under expert medical direction for the care of individuals committed to them by the state because of behavior ineptitudes, failures and incapacities.

A "sentence" will be as unthinkable for a murderer as it now is for a melancholiac. Unkindness will be as taboo for a felon as it now is for a woman in delirium. Release before complete recovery will be as irregular and improper for a thief or rapist as it now is for a paretic or a leper.

The modern surgical operating amphitheater developed out of dirty public barber-shops. The physicians took surgery away from the barbers a century ago; now they are taking criminology away from lawyers, jailers, and politicians.

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A Museum Of, For and By Newark

By JOHN COTTON DANA

"MISS BLANK wants to know can she have a glacier for tomorrow, please? And, Oh yes, a celluloid process, some early Dutch settlers, and a coal mine."

This is the sort of request which children bring daily from their school teachers to the Newark Museum. Teachers send slips asking for the "Middle Atlantic states and a crocodile," "The Civil War and China," "street cleaning apparatus or volcanoes when you have them." Occasionally a little boy strolls in and asks for "bones or a skellington or sump'n like that." These requests are filled from a collection of models and objects in the Lending Department.

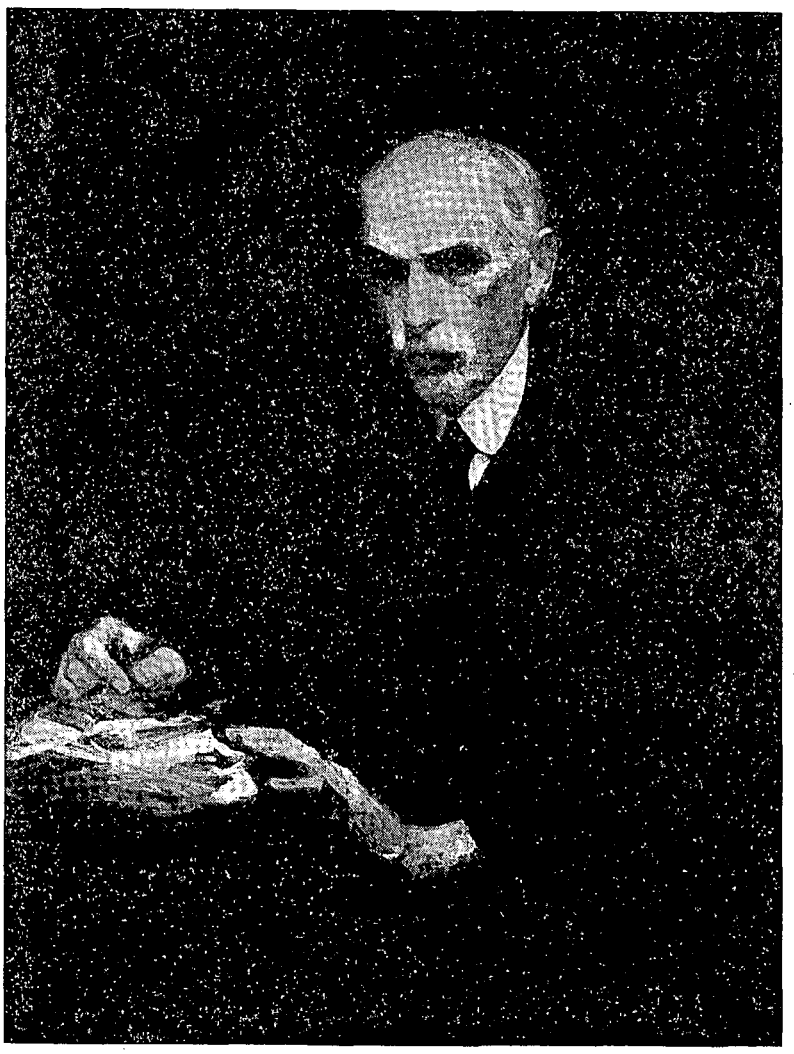
The Museum has been lending, during the past year, nearly two thousand individual exhibits a month to Newark schools. Exhibits in the lending collections cover industrial processes from asbestos to zinc, all obtained from Newark factories to enliven and amplify the study of commercial geography and local history; minerals from agate to wood, petrified; objects illustrating the customs of the races of men; insect life, bird life, and countless other subjects.

Local industry exhibits have been displayed at the Museum, at the Library and its branches and in schools, showing products of the community's activities in factories and workshops, textiles, leather, varnish, celluloid, pottery. They showed not only Newark products; but also like objects from producers in other parts of this country, and, from foreign makers, all accompanied by labels and leaflets.

Through these exhibits the museum staff has learned to know something about its city: its organizations and individuals and civic and educational enterprises that can be of service to those who come to the museum for advice, information or assistance—artists, designers, manufacturers, sellers, exporters and importers, engineers, chemists and scientific groups. And the staff has before it at all times the ideal of a museum and a city working together at all possible points. The Newark Museum is trying to be a workshop of education; an assistant to all educational activity in the city.

WHAT is the meaning of these deviations from the traditional museum pattern?

When the Newark Museum was born in the Newark Public Library sixteen years ago it looked out upon the life of its city and endeavored to find out what it was to do. In those days Newark was already on the high road of a great commercial expansion. It was developing from a village which commerce and industry had quite overwhelmed, from a village which could not at first believe that it had grown into a town, and in fact into a city, and was unable to adjust its small town ways to the manners of the city which it had become. The Newark of today has grown into an alert and fully conscious city which has turned joyfully to the task of making itself over anew, of fitting itself to its new needs, and of so adorning itself that it may properly demand of its citizens that they care for it because it is worthy of their care.



From the portrait by Douglas Volk

John Cotton Dana: creator of the Newark Museum

The Museum from the beginning asked itself the question, "What can I do to help make life in Newark a little more gracious and livable?" We might have answered that question by bringing well authenticated masterpieces to Newark, an occasional Nicolas Maes, a second-string Tintoretto or Rubens now and then. But Newark is near America's greatest museum of art, history, and science. Newarkers can easily visit the Metropolitan Museum, the Museum of Natural History, and others. For Newark to attempt to

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compete with these museums in their fields would have been an absurd waste of money. But we saw an opportunity to approach the people of our city in a more intimate way by serving immediate community needs.

Newark is a manufacturing city. We found that it has more than two hundred and fifty distinct lines of manufacture. These have to do with the things people wear, with articles of personal adornment such as jewelry, with goods used in the household, upholstery, furniture, pottery and even bathtubs and open plumbing.

It might be said that a museum has very little to do with all this. We have been taught to believe that museums have to do with the past, with artistic, historic, and other objects of great repute and of certain antiquity. Few of us, at the time the Newark Museum began its career, dared say that they found art and beauty in industry, in the products of American factories. But the fact is that it is precisely in industry that the most native and original art expression of America has come. Who in Europe or Asia or Africa or Australia cares for American paintings? for American sculpture? But who that counts himself civilized, in any continent, has not heard of American bathtubs, of American automobiles, and of a thousand other contrivances produced by American manufacturing skill?

"What's an automobile or a bathtub to do with art?" you ask at once.

The answer is "much, if not everything." Leaving aside the representative and purely expressive elements in art, one finds that the thing most pervasively associated with art through all ages has been beauty. Now beauty is a very elusive thing, but sifting down thousands of definitions of the beautiful one comes to believe that what most people mean by beauty is the most perfect adaptation of means to ends, the most perfect adaptation of an object to its uses, and to the needs of its user or beholder. This point may land us in quagmires of discussion, but let it stand.

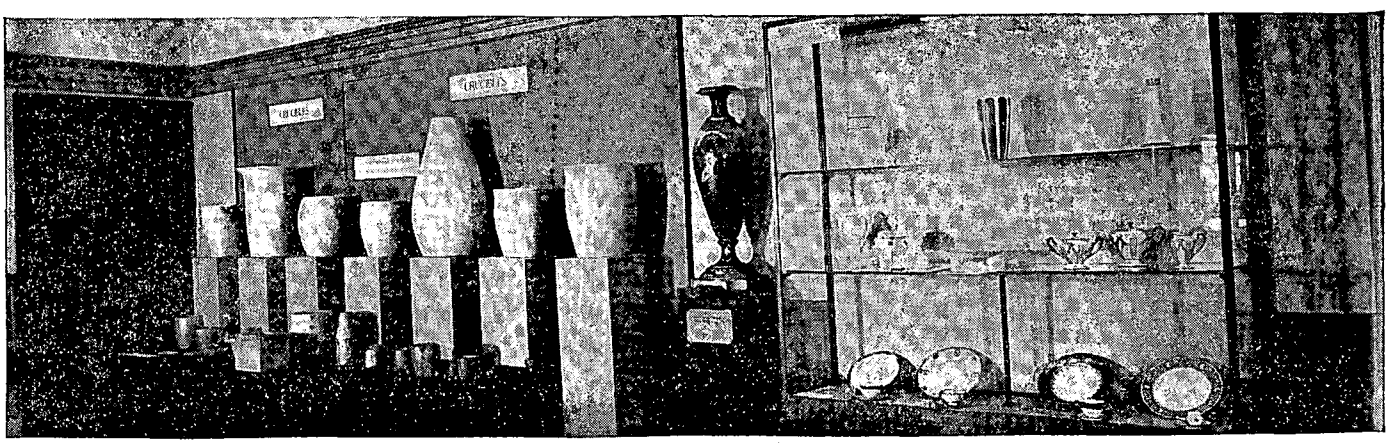
If beauty be the most perfect adaptation of means to ends then industry is as full of art and beauty as the milky way is full of stars. And if art means anything at all, it means so much that we must have it in everything from the cup and saucer to the skyscraper. Here as elsewhere the activity of mankind outstrips its theorizing. We produce art long before we recognize it and label it as such.

We reached that conclusion fairly early in Newark. We came to believe that art in articles of wear, in articles of daily use, in household goods, in furniture, and in mechanical contrivances, is the art of the greatest importance. When people have the right attitude to this most popular art, then they will also have the right attitude toward the fine arts, toward painting, and sculpture, and architecture. In choosing articles to wear, in choosing furniture, in choosing the leather with which an automobile is to be upholstered, average men and women get their most pervasive esthetic experiences, and form habits of criticism and judgment.

THE Newark Museum began its career with small exhibits of fine arts and arts and crafts, with the idea of discovering and showing the industrial art of its city. The New Jersey pottery and porcelain exhibit shown by the Newark Museum in 1915 and the textile exhibit of 1916 were full of the beauty of the machine. In the textile show of 1916 we had a Greek woman spinning with a distaff and spindle, and we showed the primitive elements of weaving. We showed also modern methods of spinning, weaving on Jacquard looms and the more modern machine processes. People were interested in both the ancient and the modern processes. The Greek woman spinning showed them something of the poetry of the past. The modern machine processes had in them the poetry of youth, and it was about these processes that we had the most inquiries.

In the pottery and porcelain exhibit of 1915 people in large groups, and especially the children, stood in fascination before a potter at work. They saw the relation between ancient and modern processes, traced through tools, designs, forms, and objects, the primitive bowl and jar, the modern teacup and bathtub. In this light the bathtub became to them an object of beauty and adventure.

The Newark Museum has consistently tried to show the beauty of the machine, and has tried to discover the articles in local manufacture, whether in the shop or in the factory, which exhibit the most careful research into the adaptation of means to ends. It has done this as its part of the adventure of living in America in our day believing that not only will these exhibits have a salutary effect in improving the quality of design in the articles produced, but that Newarkers who have seen these exhibits will show a more respectful interest in the men and the municipality which are giving these things to the world. So the Museum has instituted an annual show of ceramics and ceramic design, featuring the work of local designers and craftsmen, arranging special exhibits of ceramic design sources from the history of ceramics in Europe and Asia, and also illustrating sources of ceramic and textile design in other arts, as for instance, in our Chinese exhibition of 1923 we showed a collection of



Production processes: illustrated by an exhibition of ceramics at the Newark Museum.

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Chinese embroidery which proved a mine of suggestion to he ceramic designer, and to the textile designer as well.

We have showed Newark-made jewelry, Newark-made uttons and medallions, leather goods, textiles, and what not, n certain galleries, and paintings, sculpture, and arts and rafts in others, with the aim to show Newarkers that beauty nd fitness are, and should be, basic elements in all the use-ul artefacts made by man, just as much as they are in he fine arts.

In its new building, when it opens this month, the Newark museum is stressing these sides of the adventure of iving in America today—the adventure of machine produc-ion in a great leather exhibit, and the adventure in the ield of fine arts in an exhibit of more than a score of aintings by living American artists purchased during the ast year. This stately building, admirably adapted to its urpose, bears the name and is the gift of Louis Bamberger —the most modest of men, of whom one can say a word of raise only when he is ignorant of one's intent to do so. The marvellous success of the enterprise is ample testimony o the fact that he looks well into the future; and the ympathetic interest he has for years taken in the project or a museum in the city of his adoption has seemed to ompel him to apply generously of his money to make his ision of a Newark museum come true. The building tands on a central plot of land bought by the city of Newark, and the city has appropriated approximately 100,000 for the support of the museum this year.

The museum emphasizes American industrial art and American fine art, but not exclusively—it has already howed a number of European exhibits of industrial art, Hungarian, German, Czechoslovak, and exhibits of the Orient, particularly, China, Japan, and Tibet. It is acquir-ng typical objects of fine art, both painting and sculpture, particularly the work of American artists; he best obtainable reproductions of some of he world's leading creations in these fields; nd examples of applied art and of material llustrative of history and of the sciences, for he Museum has scientific and educational lepartments in addition to the art and the ndustrial arts departments.

DESIGNERS and craftsmen from New-ark jewelry factories, leather emboss-rs, linoleum makers and other manufactur-ng plans come to us for objects and pictures o be used in designing. It is no rare hing to see groups of men in working clothes tudying exhibits in the Newark Museum luring the noon hour, on Saturday after-ioons, and after the whistles blow at ight. One jewelry designer has been com-ng to the Museum for years, borrowing lates, designs, and often actual objects. This spring his employer, who has just re-urned from Europe, said to him:

"Guess you'd better take a few months ff this summer and go to Europe to brush ip on design."

The designer in telling a member of the Museum staff of the incident, added:

"You bet I didn't tell him of all he lovely stuff I get right here at the Museum. He'd tell me I didn't need to go to Europe."

Small collections of objects are also lent to individuals, groups and societies, stores, factories, and others whenever these things are useful to the community when thus lent. It is the aim of the Newark Museum to establish numerous branches throughout the city in easily accessible rooms, in libraries, in business houses, and in special rooms with separate entrances in school buildings, and in other places. Some of these branches have been established and to them have been sent from the Museum's collections such things, for example, as a fine painting with descriptive leaflet; a bronze, also with descriptive leaflet; plaster casts, prints, wood carvings, textiles, woods, stones, animals, birds, in-sects, local industry exhibits, etc., all with labels which explain and describe, and often with leaflets which visitors can take away. Groups of interested persons in all New Jersey communities are encouraged to borrow these branch museum exhibits. Department stores in Newark, and several of the leading department stores of New York ask the Newark Museum for exhibits from time to time, and always send members of their sales staffs to study exhibits such as the textile, ceramics, and leather shows.

The Newark Museum is becoming a center for collectors of all New Jersey, old and young, and for specialists, through a state-wide collectors' league, which is being made up of museums, libraries, individual collectors and art and science lovers. In return for the use of the Museum's re-sources, these collectors and specialists cooperate with the Museum in adding to its collections and in helping to identify and describe specimens and in preparing labels and leaflets.

In many of the fields in which the Newark Museum is showing and expounding its collections it can hope to do no more than to arouse a new or awaken an old interest. It is therefore doubly keen to arouse active interests by its methods of presentation, and it is adding simple devices for informing visitors where they can best continue their studies on the lines to which Newark's Museum has moved them.

The Newark Museum owns The Rigger by Mahonri Young

All this is a large program. But, even though time may show that it is far too large to be carried out by such an institution as Newark is willing to support, it is well that we should try to carry it out, or at least that we should set it down. Every public institution should have always before it an ideal of public service far above that which it dares hope to attain. It should not have its eyes on the ground or be for a moment satisfied with what it has done.

And, for my part, the growth of Newark's willingness to strive for a city's excellence—a growth that we have so plainly seen in the past twenty odd years—added to her ability to supply the essential backing for her strivings, compels me to believe that it will do more than make come true any prophecies that can be set forth of the Future of her Museum and of the part it is to play in the life of the community.

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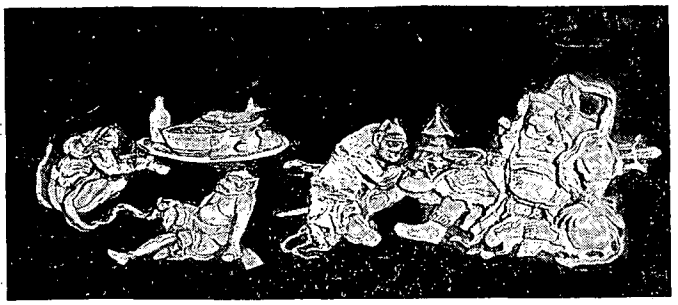


Japanese hand embossed leather, figures in ivory, brown background

The World as Teacher

Objects of beauty and use from all corners of the world, gathered by the Newark Museum to suggest decorative motifs to designers and craftsmen in New Jersey factories.

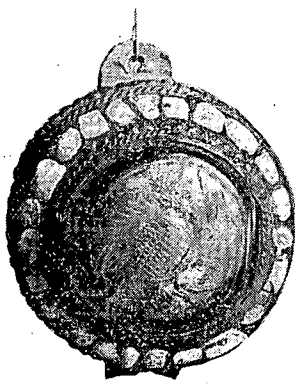
Painted shield from Borneo

Glass from Orrefors, Sweden

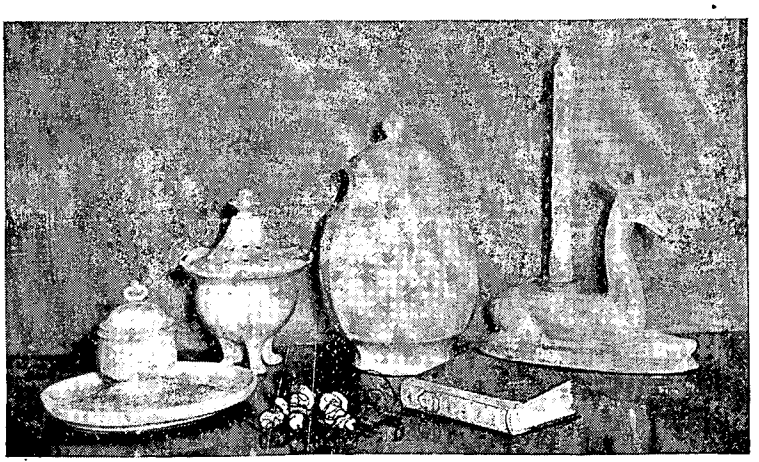
Copper tea pot, Tibetan

Modern Swedish engraved glass

Necklace of Gold, Zanzibar



Turquoise studded buckle, Tibet



Modern German porcelain in Newark's applied art show, 1922

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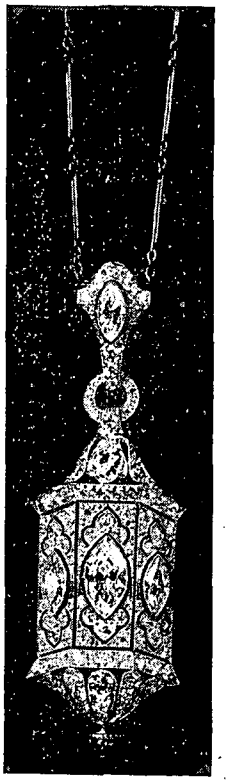
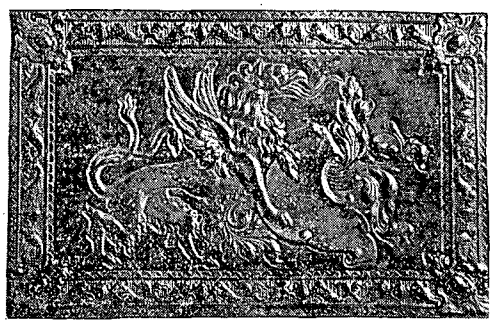
Applied Art in New Jersey Factories

Articles made by New Jersey manufacturers (with one exception), many of them inspired by designs supplied by exhibits and pictures from the Newark Museum. The Newark Museum lends objects, designs, pictures, and books to designers and craftsmen in factories, and to anyone who can make good use of them.

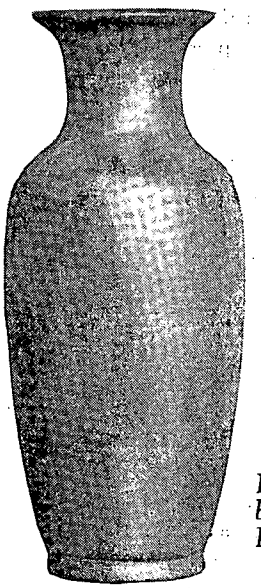


Watch pendant made in Newark, adapted from Chinese design in Museum collection

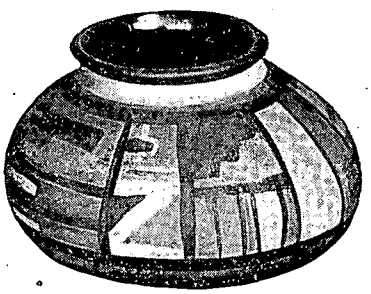


Decorative leather embossed in a New Jersey plant by modern machine process

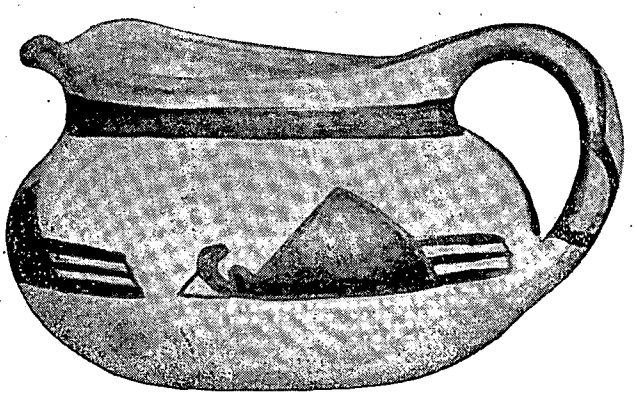
anther, a small sculpre by Anna Vaughn Hyatt Huntington



Pottery vase made by the Clifton Potteries, Newark



Pottery pitcher and bowl made after American Indian ceramic designs by the Clifton Potteries, Newark



Lady's bracelet with concealed watch, geometric design. Designed by artist who uses Newark Museum collections

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Ethics and the Medical Profession

By RICHARD C. CABOT, M.D.

I KNOW no medical school (or indeed any law school or school of business) in which professional ethics is now systematically taught. Occasional and sporadic talks may give the students some hint of the subject and of course the ethics actually followed by the teachers in their habits of thought and speech, in their dealings with students, patients, colleagues and "the laity," may be absorbed by their students. Indeed, if the individual student has a chance to see his teacher "in action" outside the classroom, he may learn good ethics in one of the most effective ways—by example.

When I try to think of the most undeniable examples of an improvement in personal character and in ethical standards brought about within a few months by influences which one can put one's finger on, I can recall none so striking as the rapid moral advance of the internes at the Massachusetts General Hospital during a period of years I was in position to observe them when their "chiefs" in the medical and surgical services were men of inspiring character, as well as of remarkable skill. One could count on it. Callow youths, shapeless souls, would be transformed within the eighteen months of their service, not into saints or heroes, but into something quite miraculously better than they were eighteen months earlier.

Sometimes they copied the mannerisms as well as the ideals of their "chiefs" and assumed fashions of speech or of gait ludicrously foreign to their actual natures. But without an exception that I remember during the years to which I refer, these students gained astonishingly in integrity, in sincerity, in the aspiration for self-improvement conceived, of course, primarily in professional, not in moral terms but including, nevertheless, an infusion of genuine moral enthusiasm. These students have continued, as I have known them in later years, to meet their life opportunities with earnestness, with vim, without pretense or superciliousness, without meanness, with a good deal more honesty, generosity and liberality than their youth gave promise of.

To watch this change of character going on under one's eyes, year after year, in batch after batch of hospital internes, would convince anyone—as it convinced me—that it was not "accidental," that its causes could be identified with something in the leadership of the men under whose supervision these students met the great responsibilities and faced the great eye-openers of their interneship. When anyone tries to convince me that character cannot be changed in any important respect by anything that we can do about it, that ethics cannot be taught, and that if men grow better, it is wholly through their own independent and internal metamorphosis, I find myself recalling the stubborn facts of my hospital experience, unable to doubt them. Many others have witnessed those same facts and borne the same testimony. The life of William Osler, and the waves of influence centering in his contacts with young men at Johns Hopkins and thence spreading circle beyond circle across America, is perhaps the most magnificent example of what I mean.

BUT Osler preached and wrote as well as practiced. The group of men who so signally transformed the lives of their internes at the Massachusetts General Hospital, during the years when I was able to watch the process, were men who never preached or wrote about ethics. They would have scorned such preaching or relegated it strictly to the clergy and the "uplifters." They were "practical men" first and last; yet they exerted an enormous influence for the solidification and clarification of their assistants' character. How did their ideals "get across" to their pupils and assistants? I cannot altogether explain it. They never said or implied—"Look at me. Imitate me. Profit by my example"—except in purely technical matters. How to feel a spleen, how to percuss out the "dull" areas corresponding to the position of the healthy or diseased heart, how to listen for the earliest evidences of tuberculosis in a patient's lung, how to hunt through a microscopic field for the parasite of malaria—in these matters I often heard our medical chiefs ask their internes to watch and imitate them.

"But when it came to the "technique" of courtesy to most unpromising old wrecks of humanity, of patience with the fretful whimsies of the convalescent, to faithfulness throughout tiresome physical or chemical examinations which one "knew would be negative" (i. e. fruitless) because one had done them hundreds of times before and never yet found what one sought, when it was a question of confessing one's failure and facing one's utter helplessness in a moment when everyone looks to the doctor for heroic efforts to stave off death—then there was no teaching given, no moral pointed out, no consciousness of setting an example. *Yet ethical ideals were transmitted,* all the more, perhaps, for the absence of any consciousness on the part of the "chief" that he was doing anything but "minding his business."

THE teacher ordinarily is in a very comfortable place. He sits upon a raised platform in a comfortable chair and comfortably lays down the law, tells stories, or questions neophytes on a subject familiar to him. But in hospital work a teacher is often in a very strained position, with a very tired back, or with a still more tired mind, as he reads for the thousandth time a description of the human carcase, written in the cramped and arid style traditional in hospital records. Patients, too, are fractious and unreasonable; humiliatingly often our remedies do no good; our failures stare at us in dumb reproach out of the sick man's eyes. Our work at the hospital is never finished, yet we have still our living to earn after we have finally torn ourselves away from the wards.

My teachers at the hospital bore these and many other annoyances. Yet they not only worked with a faithfulness almost contagious, but they maintained and shared their

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enthusiasm, which may here be conveniently defined as the power to rejoice as one sees, and makes others see, what at first is invisible. I have seen my "chief"—Dr. F. C. Shattuck—step back from a bedside with staring eyes and outstretched hands—"God bless my soul! Did you ever see anything so beautiful as that!" "That? What?" Well, so far as the rest of us could see it was the brown and wrinkled "stomach" of an emaciated Chinaman who had recently vomited a very offensive substance which still stood in a basin by his bedside. But "that," as my "chief" saw it was a delicate wave of intestinal movement, faintly visible through the abdominal wall and casting a moving shadow which traveled silently and swiftly across from right to left, outlining the course of the large intestine (ordinarily invisible) revealing the fashion of its action, and above all, throwing important light on the cause of this patient's sufferings, hitherto in doubt. *We* had seen a very unpleasant and rather aggravating specimen of sick humanity. *The "chief"* had seen the graceful action of a mysterious living organ which, ordinarily, we see only when the life has gone out of it. He had seen the wonders of unconscious physiological action, purposeful and accurate beyond anything that we know in the domain of consciousness, yet pathetically invariable in its behavior, so that (as in this poor Chinaman's case) it continued its usual suave, unresting activity, even when the only result was torturing pain. What a mystery is an organ's super-intelligent and exquisite motion, steadily continued when disease has rendered such continuance only a mockery and an agony, yet still deliberate, unceasing, beautifully accurate and full of grace! That is what our chief saw, and the beauty and the horror of it all mingled with his triumph in having discovered what we had not been sharp-sighted enough to see, in having put his finger on the cause of the sufferer's malady and showed the path to be followed in attempting his relief. It was not ethics that we learned from such an outburst. It was the power of wonder, something underlying ethics, something akin to religion.

ANOTHER picture comes before me. We are in the crush and turmoil of an out-patient clinic—female medical—where throughout a long morning we try to solve difficult puzzles, to distinguish and identify faint sounds with the stethoscope, to sift and balance contradicting evidence, to cheer down-hearted sufferers and to keep our tempers. Human figures, voices, smells weave about over our heads as we stoop down, at our knees when we stand upright, over our shoulders, under our upraised arms. Bells jangle, babies (in the adjoining clinic) squall. And in the midst of this we have to write well-considered judgments into records that others must depend on for guidance and to make decisions affecting perhaps the whole future life of a patient and his family. Moreover, to anyone who is sensitive to the mood and to the facial expression of those close around him, the faces and tones of the patients are often a greater trial than the physical distractions of sight, sound and odor. On the day that I am recalling it was 12:45 and we had been at it since 9 o'clock. My out-patient chief was an elderly man, delicate in health, fastidious, gentle, sceptical of medical wisdom, slow in all the mental and muscular movements for which such a clinic demands swiftness. He had been toiling through his morning's work—just as he always did—patiently, steadily, but quite without enthusiasm. He was now seated on a three-legged stool, with a towel across his knees, peering through his spectacles at a student's record of a woman patient whom he had examined earlier in the morning and was next to see and advise before she left.

She came waddling towards him with a heavy frown. Her expression of blazing scorn was combined with an hereditary and ingrained gloom, expressed in half closed eyelids and a drooping mouth. It is an expression terribly familiar in out-patient clinics. It says: "Leave all hope and all good opinion of yourselves ye who enter here," says it at a moment when one most needs hope and confidence. But it is also particularly irritating. For it seems to accuse you of neglect, folly and incompetence. If you can face it down with a decent composure and with a brisk and business-like manner, it is ordinarily the best you can do.

I marvelled, then, when I saw the chief look up from his reading and beam at this minatory and demoralized female. His smile had a welcoming warmth and, slightly rising as she approached, he motioned her to a chair, with: "Sit here, if you please, marm." It was all in that last and most unexpected word—old-fashioned courtesy, deference, charming modesty. He brought the atmosphere of a summer garden to meet this miasmic fog. The fog did not yield. The woman showed no slightest appreciation of his kindness, no melting of her scorn. But he carried through the interview as he had begun it and still bowed and smiled to her oblivious back as she stumped sullenly away.

He had no consciousness that anyone was watching him, no desire to teach, and, I fancy, considered himself a failure at the end of that morning, as he so often described himself in general. But at least one of his assistants learned some ethics that day.

I HAVE tried to bring out here the contrast between the comfortable security of the academic platform where the teacher is seen by his pupils in full control of the situation, adequate and successful because he enjoys very special advantages, and the medical teacher seen in the midst of difficutlies, grasping at expedients, half a failure, but wholly drenched in reality. Surely it is in the presence of the latter that the world's best lessons in ethics are learned.

II

YET silent example is not enough for the student of medicine. He wants precept also, explanation after demonstration. And because universities still omit to put any teaching of medical ethics into the curriculum, the students plan ethical instruction on their own accord and call in speakers from outside. This has happened at Harvard every year in the last dozen or so, and I have no doubt it is the same at many other medical schools. For the students really need it. For example: they are uncomfortably aware that they have been told nothing about medical fees or about any part of *medical economics*. Yet they know that very soon they will have to be earning their living and they wish to earn it honorably. They have heard about "fee splitting" (one of the commonest forms of medical graft) and gossiped about the exorbitant fees exacted from rich patients. They have also heard that the doctor is expected to treat a good many patients for nothing or for merely a nominal fee. They have heard medical partnerships extolled and denounced and they wonder why. "Con-

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tract practice" they hear described as a heinous crime. Yet how it differs from any other work done under contract and why a contract should be honorable in all other fields but disgraceful in medicine, they do not understand (which is natural enough because no one else has ever yet penetrated this mystery of medical phraseology).

Again medical students have had occasion to watch but never to discuss the contrast between the outstanding integrity of the medical teacher in certain difficult medical situations and his readiness to lie on other occasions.

Moreover they want to know about *euthanasia,* that ancient and reliable novelty, that dependable stimulant of readers' interest in the news of the day, the shopworn discussion which the newspapers trick out afresh each year in August when politics are dull and there is dearth of copy.

Students want to hear the pros and cons on the ethics of birth control, of state medicine, of abortion, of the use of bread pills, of medical advertising, of proper and improper technique in medical competition and in many other matters.

But since the medical faculty in its wisdom provides not an hour of instruction in medical ethics, all these problems have to be compressed into a few hours of volunteer lecturing arranged for by the students themselves on one of their free afternoons, when they ought to be getting some much needed outdoor exercise.

YET though as a profession medicine is so extraordinarily reticent about ethics, it has been (so far as I know) the first professional body to formulate its traditions of correct professional behavior, the first to write a *code of ethics* and to acknowledge allegiance to an oath—the ancient Hippocratic oath. In the United States the code of medical ethics was drawn up by a committee of the American Medical Association in 1847 and revised in 1912. Most of the ethical codes of the various trades and professions have come considerably later, as I shall show in another article.

The Hippocratic oath dates from the time of the founder of medicine four hundred years before Christ. It is a curious mixture of sound sense, valid for all time, and of pledges which have no application to modern medicine. In it the doctor promises that he will not operate on anyone for stone in the bladder but "will give way to those who work at this practice"—a form of trade unionism not popular among physicians today. But he also promises that "Whatsoever, in my practice or not in my practice, I shall see or hear amid the lives of men which ought not to be noised abroad, as to this I will keep silence." One wishes that such an anti-gossip rule were in force today. Physicians do not, as a rule, take this oath today but they are in strong sympathy with the spirit of many of its clauses and not infrequently devise more modern pledges for medical neophytes in the effort to christen their early work with the solemnity of an oath.

For example: At the University of Michigan—said to be the original from which Sinclair Lewis sketched the medical school in Arrowsmith—a body of students and graduates desiring to raise the ethical and scientific standards of the school, organized not many years ago the Alpha Omega Alpha society. The three Greek letters in its name are the initials of Greek words meaning "Fit to serve the suffering."

Last April (1925) in the course of an impressive address with which one of its student members prefaced the administration of the oath to five newly admitted students, at Ann Arbor I heard the following words:

Our Society exists to advance professional ideals among medical students. Your selection (as members) is symbolic to you and to fellow students of the true ideals of the medical profession. These ideals are:

First of all, moral character must be above reproach; no one is fit to practise medicine of whom this is not true. . . . The state and private philanthropy has expended money upon your training not in order that you may yourselves selfishly profit, but in order that you may serve your day and generation in a highly difficult and responsible profession. It is yours to give to your patients the very best of which you are capable. We are confident that you will be guided by this ideal of service. Otherwise you would not have been chosen.

(Readers must realize that these words were spoken by a medical student to his fellow medical students at a private dinner of their club, with no thought of general effect and with none of the official temptation to "talk big" to one's pupils.)

At this point I saw five young medical students stand up side by side at their places at the dinner table. Facing them the speaker continued:

These * are the guiding principles of the medical profession to which we ask you to give assent as members of Alpha Omega Alpha. I therefore demand of you whether you give your assent to these ideals of your chosen profession.

(Space compels me to omit part of what he said, but it was all of a piece with my quotations.)

In an impressive silence, the five boys answered—not theatrically or self-consciously, but quietly and clearly:

We do.

Do you promise hereafter to use your utmost efforts not only to attain these ideals in your own life, but also to maintain and advance them in the profession at large?

We do.

Do you agree to support the Constitution of Alpha Omega Alpha and to aid in every honorable way to enlarge its usefulness?

We do.

In the name of the Alpha Omega Alpha of Michigan, I formally declare that you are entitled to the privilege of full membership in the society.

Each of the five then received the official badge and certificate, after which I was called upon—profoundly impressed by what I had seen and heard—to say what seemed appropriate.

Here, then, is another example of how the ethical idealism of the medical student, in the absence of any efforts on the part of his teachers, breaks out and asserts itself. It is characteristic, not of course of all students in all American medical schools, but of a large and influential section in the better institutions.

IT is interesting to see the differences between the code of ethics adopted by the American Medical Association in 1847 and the revised form issued in 1912.

1. They should study [says the 1847 code] in their deportment.... .....*to unite condescension with authority* [italics mine].

In the 1912 code they have ceased to condescend, but in 1847, one was forced to do so because "reasonable indulgences should be granted to the mental imbecility and caprices of the sick."

* In essentials the speaker had outlined them in the sentences I have quoted above.

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However much the modern physician may *think* this of his patients, he will not say it, even in his code.

2. Another change in the 1912 code reminds me of some of my earlier ethical battles with medical colleagues. This concerns the matter of *professional secrets* which was touched upon in the Hippocratic oath. There the physician swears not to gossip about his patients or to pass along to others the knowledge which he may have about the seamier sides of their lives. In the 1847 code we find:

> None of the privacies of personal and domestic life, no infirmity of disposition or flaw of character observed during professional attendance should ever be divulged by (the physician) except when he is imperatively required to do so. . . . Professional men have, under certain circumstances, been protected in their observance of secrecy by courts of justice.

But how far does professional secrecy rightly go?

Suppose a young man is found by his physician to have syphilis and despite this fact, to be approaching his wedding day, his fiancée and her family knowing nothing of his condition. Is the physician bound by professional secrecy to allow this man to marry a woman who knows nothing of his condition and probably to infect her with a serious disease?

Twenty years ago many of my colleagues said "yes" and were indignant with those of us who said "no." Indeed, a fair case can be made out for the affirmative. The patient has given his physician the facts because he trusted the physician to preserve a professional secret. If all honorable and skillful physicians were known to be ready to betray such a secret, patients might shun such physicians and be drawn into the hands of quacks and shysters.

Nevertheless, I believe today the great majority of physicians would say to such a man: "Put off your marriage until you are cured or at any rate non-contagious. Otherwise either you or I will tell your fiancée." Few physicians would stand by and see an innocent woman suffer such a punishment as would follow if his advice was disregarded. And today much fewer men would think of treating any woman in so dastardly a way.

This change in public sentiment is reflected in the 1912 code which enjoins physicians to preserve their patient's confidences as a trust, but adds:

> There are occasions, however, when a physician must determine whether or not his duty to society requires him to take definite action to protect a healthy individual from being infected.

Note that it is still left an open question, and that still no duty to the "healthy individual" is recognized—only the duty to society. But in practice these two duties would usually prove to be one.

OF course no one is likely to suppose that the writing or signing of a code of ethics secures obedience to it. The code is of interest chiefly because it shows what a fairly representative section of medical men think *ought to be* the behavior of all physicians. What the writers of the code consider important enough to mention and what they leave out, either as unimportant or as too obvious to need mention, are matters of some interest.

As in most other codes of ethics, questions of etiquette and of professional custom take precedence over questions of right and wrong. What is seemly, what is good form, what is convenient for the smooth movement of daily work, what can be counted on to minimize friction and keep the peace in the relations of doctor to doctor and doctor to patient, fill most of the code. For example, newspaper advertising of his powers by a physician is contrary to medical ethics. But no one would contend, I suppose, that it was in itself morally wrong. Medical men have explicitly or tacitly agreed not to do it. Hence, anyone who does it is going against the corporate opinion and the usual practice of his group. That is all.

III

MOST of the code contains nothing that is now under discussion, and since this article is concerned with current movements, rather than with settled customs in medical ethics, I will refer to only one matter.

The code is quite representative of medical public opinion in its strong condemnation of *"contract practice."* At any rate, it certainly was so when it was written and no one could be certain of support in any proposition to rescind this condemnation today. But it is noticeable that the code is brief and vague when it comes to define what "contract practice" means. There is a good reason for this, for the attempt to define it would show that any viable definition must cover practices that are very widely recognized, certain to continue and strongly supported by many of us, though still silently frowned on by others.

"Contract practice" means medical services contracted for by a mutual insurance club, by a "lodge," by a manufacturing corporation, by the owners of a mine, by the managers of a department store, or by a concern such as the Life Extension Institute.

The doctor sells his services not directly to a patient, but to a club or a commercial organization which contracts for them in order to benefit the health of its members or employes. This action, it is contended, is commercializing the medical profession and bringing unfair competition to bear upon the private practitioner. For the medical services thus contracted for are sold for a price which undercuts the lowest that the private physician can charge and still make a living.

At its worst this system is seen in the so-called "lodge" practice. Membership in a lodge or fraternal order carries with it the right to free treatment by the "lodge doctor" who is paid out of the lodge dues and must attend without fee, any member who is sick. The pay given to the lodge physician is so small and the number of patients whom he may have to attend is so great, that it is impossible for him to give good service, so that I think it is generally agreed by patients and physicians who know much about "lodge practice" that it represents the worse type of medical practice that exists. It is rendered still worse by the "political" maneuvering necessary for the doctors who compete to secure these positions which, though so miserably paid, are much sought after because the pay, though small, is secure and because, by holding such a position for a few years, the physician gets himself known and when he resigns can step into a better position than he had at the start.

This sort of practice is what "contract practice" originally meant and it is condemned, so far as I know, by all physicians, including those employed under it. It encourages disgracefully low standards of (*Continued on page* 641)

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My Apprenticeship

III. Charles Booth and My Search for a Craft

By BEATRICE WEBB

Mrs. Webb, in her early years as social investigator, had contact with the beginnings of housing reform under Octavia Hill; the rise of the London Charity Organisation Society under C. S. Loch as a recoil against indiscriminate alms-giving; its alignment against social legislation; the break with it of Canon Barnett, founder of Toynbee Hall (pioneer of the social settlements); the fresh start, based on comprehensive social inquiry, afforded by Charles Booth's monumental study of the Life and Labour of the People of London (the first of our city surveys); and, in especial, the investigations of the sweated trades out of which grew the British minimum wage acts. These developments all had a profound influence on the formative years of social work in the United States.

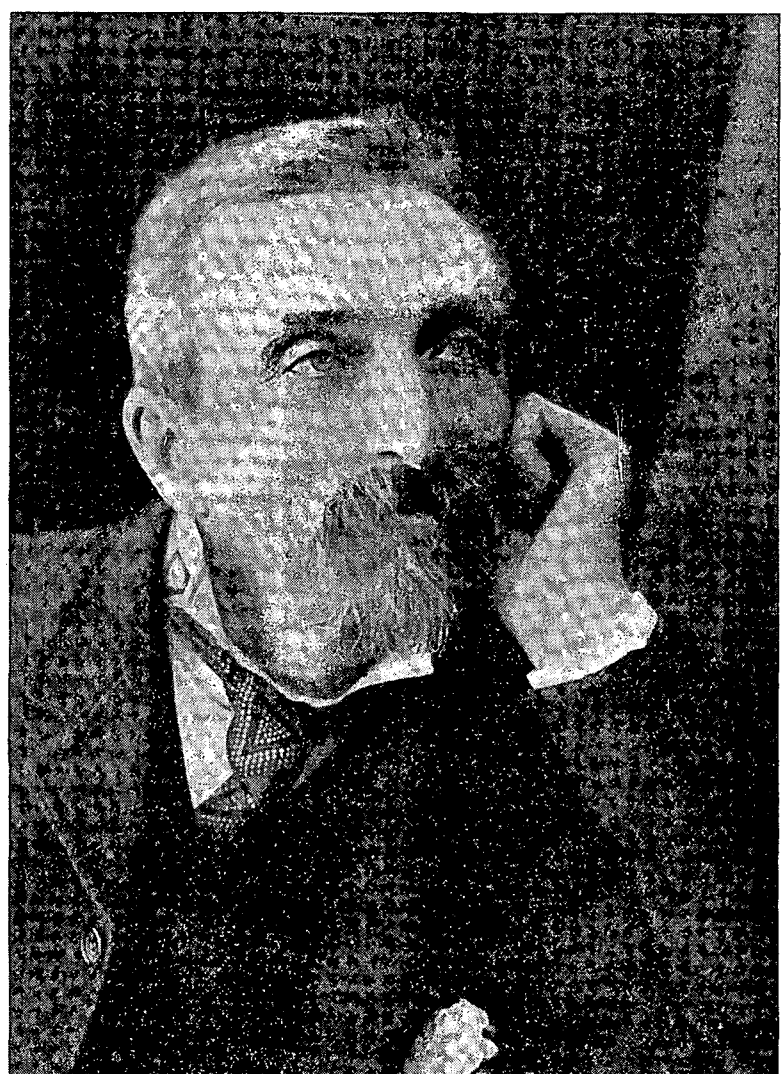
TO me "a million sick" have always seemed actually more worthy of self-sacrificing devotion than the "child sick in a fever," preferred by Mrs. Browning's *Aurora Leigh*. And why not? The medical officer of health, who, made aware by statistical investigation of the presence of malaria in his district, spends toilsome days and troubled nights in devising schemes for draining stagnant pools and providing for the wholesale distribution of quinine, has a compassion for human misery as deep-rooted as, and certainly more effective than, that of the devoted nurse who soothes the fever-stricken patient in the last hours of life. This type of broad-based beneficence has been exquisitely expressed by Sir Ronald Ross, the discoverer of the cause of malaria.

[Before his discovery, 1890-93.]
The painful faces ask, can we not cure?
We answer, No, not yet; we seek the laws.
O God, reveal thro' all this thing obscure
The unseen, small, but million-murdering cause.

[After his discovery, 1897.]
This day relenting God
Has placed within my hand
A wondrous thing; and God
Be praised. At his command,
Seeking his secret deeds
With tears and toiling breath,
I find thy cunning seeds,
O million-murdering Death.
I know this little thing
A myriad men will save.
O Death, where is thy sting?
Thy victory, O Grave?

Not that I wish to imply that research, still less my own investigation, into the cause and cure of poverty has yielded, as yet, results in any way commensurate with Sir Ronald Ross's researches into the origin and prevention of malaria. Still in its infancy, the science of society has barely reached the years of fruitful discovery. All I suggest is that the impulse of pity for the needless misery of men, as distinguished from the suffering of those individuals whom you happen to know, can be as operative in the study of human nature in society as it is in that of the pestilential poisons besetting the human body.

The world of politics in the 'seventies and 'eighties was intimately associated with the world of philanthropy. The social reformers in Parliament, whether Conservatives or Liberals, belonged, almost invariably, to the groups of public-spirited and benevolent men and women within the metropolis or in the provincial towns who were initiating



Charles Booth, first among social surveyors

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Sidney Webb in 1891

and directing the perpetual flow of charitable gifts from the nation of the rich to the nation of the poor.

Now, it was exactly in these decades that there arose, among the more enlightened philanthropists, a movement more potent in deterrence than the arguments of ratiocinating philosophers or the protests of cross-bench politicians [dealt with in the preceding paper], because it was based on the study of facts, and took the form of an alternative scheme for grappling, then and there, with the problem of poverty. And here I bring on the stage my friend the enemy —the London Charity Organisation Society—one of the most typical of mid-Victorian social offsprings. In after years, when its latter-day leaders and I had become respectively propagandists of rival political and economic theories, we fought each other's views to the death. But in these years of my apprenticeship (1883-1887) the C.O.S. appeared to me as an honest though short-circuited attempt to apply the scientific method of observation and experiment, reasoning and verification, to the task of delivering the poor from their miseries by the personal service and pecuniary assistance tendered by leisured and wealthy fellow-citizens.

The leading spirits of the London Charity Organisation Society, when I first came across it in the spring of 1883, had been, in 1869, its principal founders—Octavia Hill, Samuel Barnett, W. H. Fremantle, and a younger man who had recently become its secretary and was to become its chief protagonist—C. S. Loch. These initiators of charity organization were all of them distinguished for moral fervor and intellectual integrity. The immediate purpose of the society was to organize all forms of charitable assistance so as to prevent overlapping and competition between the innumerable and heterogeneous agencies. And from the standpoint of the mid-Victorian time-spirit there was no gainsaying the worth of the three principles upon which this much-praised and much-abused organization was avowedly based: patient and persistent personal service on the part of the well-to-do; acceptance of personal responsibility for the ulterior consequences, alike to the individual recipient and to others who might be indirectly affected, of charitable assistance; and finally, as the only way of carrying out this service and fulfilling this responsibility, the application of the scientific method to each separate case of a damaged body or a lost soul; so that the assistance given should be based on a correct forecast of what would actually happen, as a result of the gift, to the character and circumstances of the individual recipient and to the destitute class to which he belonged.

Now, to the unsophisticated Christian, even of the nineteenth century, almsgiving was essentially a religious exercise, a manifestation of his love of God, of his obedience to the commands of his Lord and Savior. "Give unto every one that asketh thee," "Sell all that thou hast and give unto the poor," were perhaps counsels of perfection impracticable for the householder with family responsibilities, and fit only for the saint whose entire life was dedicated to the service of God. Yet this universal and unquestioning yielding up of personal possessions for common consumption was thought to be the ideal conduct; the precious fruit of divine compassion. The spirit of unquestioning, of unrestricted—in short, of infinite—charity was to the orthodox Christian not a process by which a given end could be attained, but an end in itself—a state of mind—one of the main channels through which the individual entered into communion with the supreme spirit of love at work in the universe.

HOW opposite was the state of mind and consequent conduct of the enlightened philanthropists of mid-Victorian times! To the pioneer of the new philanthropy, "to give unto every one who asketh thee," was a mean and cruel form of self-indulgence. "These petty and oft-repeated, while heedless, liberalities, by which many a sentimentalist scatters poison on every side," had been the contemptuous dismissal of almsgiving from the category of virtues by the great Scot—Robert Chalmers—the pioneer of charity reform in the first half of the nineteenth century.

The belief—it may almost be called an obsession—that the mass-misery of great cities arose mainly, if not entirely, from spasmodic, indiscriminate, and unconditional doles, whether in the form of alms or in that of poor law relief, was, in the 'sixties and 'seventies, the common opinion of such enlightened members of the governing class as were interested in the problem of poverty. Their hypothesis seemed to be borne out alike by personal observation, the teaching of history and the deductions of the political economists. There was the patent fact, crystal clear to intelligent workers among the poor, that casually and arbitrarily administered doles undermined, in the average sensual man, the desire to work; cultivated, in recipients and would-be recipients, deceitfulness, servility and greed; and, worst of all, attracted to the dole-giving district the unemployed, under-employed and unemployable from the adjacent country. Thus were formed, in the slums of great cities, stagnant pools of deteriorated men and women, incapable of steady work, demoralizing their children and all new-comers, and perpetually dragging down each other into

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ever lower depths of mendicancy, sickness and vice. Nor was historical proof lacking. How often were we told of the success of the reform of the Poor Law in 1834, when the summary stoppage of outdoor relief to the able-bodied and their families resulted in a quick transformation of an idle and rebellious people into the industrious and docile population of the countryside, ready to accept the ministrations of the clergy and the steady employment at low wages tendered by the farmer and the squire! To the abstract economist of the period, the giving of alms or Poor Law relief seemed, indeed, to have the double evil of not merely discouraging the poor from working, but also of actually injuring the more industrious by lessening the amount of the wage-fund distributed among them in return for labor.

THE argument pointed, indeed, not to any organization of philantropy, but to its abandonment as a harmful futility. And yet these devoted men and women, unlike the mass of property owners, were yearning to spend their lives in the service of the poor. What was clear to them was that the first requisite was the thorough investigation of each case, in order to save themselves from being taken in by the plausible tales of those who hastened to prey upon their credulity. But when the circumstances had been investigated, and genuine need had been established, what line was the enlightened "friend of the poor" to pursue? The first idea was to eliminate those whose evil state could be plausibly ascribed to their own culpable negligence or misconduct.

Eventually the Charity Organisation Society was driven to drop the criterion of desert; "the test is not whether the applicant be deserving but whether he is helpable," we were told. No relief was to be given that was not "adequate," that is to say, such as could be hoped, in due time, to render the person or family self-supporting. No relief was to be given where the person was either so bad in point of character, or so chronic in need, as to be incapable of permanent restoration to the ranks of the self-supporting. All "hopeless" cases—that is, persons whom there was no hopeful prospect of rendering permanently self-supporting (perhaps "because no suitable charity exists")—were, however blameless and morally deserving had been their lives, to be handed over to the semi-penal Poor Law.

IT had become apparent, even in early Victorian times, that the greater part of the work of preventing destitution, as distinguished from relieving it after it had occurred, necessarily transcended individual capacity, and must be undertaken, if at all, by a public authority, with compulsory powers of dealing with private property, and at the expense of public funds.

The great Scottish forerunner of Charity Organization, Robert Chalmers, whilst strongly objecting both to almsgiving and to the outdoor relief of the Poor Law authorities, had equally strenuously supported the public provision, even, if need be, gratuitously, of universal schooling for the children and of universal medical and surgical treatment, both institutional and domiciliary, for the sick and infirm of all kinds; and most remarkable of all, of a universal provision, preferably by private philanthropy, of honorable pensions and almshouses for all the aged who found themselves in need of such aid.

In London, Edwin Chadwick, who had so large a share in the great Poor Law Report of 1834, was in these years still able to describe how he had been at first convinced that

Beatrice Potter in 1883

it was the indiscriminate, inadequate and unconditional outdoor relief of the old poor law that was the cause of the great mass of destitution. A very few years of actual administration of the Act of 1834 had, however, taught him that the mere arrest of demoralizing dole-giving, admirable as it was, left untouched the fundamental causes of destitution, especially among the most deserving. Within a decade Edwin Chadwick had become as infatuated an advocate of positive municipal action in the provision of drainage, paving, water supply, open spaces, improved dwellings, hospitals and what not, as he had ever been of the stoppage of doles.

But the London C.O.S. had apparently forgotten the experience of these forerunners. Its leading members added to their sectarian creed as to the necessary restrictions of the impulse of charity, an equally determined resistance to any extension of state or municipal action,[1] whether in the way of the physical care of children at school, housing accommodation, medical attendance or old-age pensions, however plausibly it might be argued, in the spirit of Chalmers and Chadwick, that only by such collective action could there be any effective prevention of the perennial recruiting of the army of destitutes. Hence Octavia Hill, C.. S. Loch

[1] It is perhaps unnecessary to point out that the charity organization movement took a refreshingly different course in this country, taking over the method of case work, but massing and employing experience with families in distress as a fulcrum for social action and legislation. Especially was this true in publication the first decade of the new century under the leadership of Edward T. Devine, then general secretary of the New York society, who served as organizing executive of the National Child Labor Committee and the National Tuberculosis Association. The president of the society, Robert W. de Forest, was in turn head of its tenement house committee, of Roosevelt's state commission, which drafted our first state tenement house law, and of the municipal department when created. The need for workmen's compensation legislation was early broached in terms of a study of cases by Francis H. McLean, then (1907) secretary of the Brooklyn Bureau of Charities, and now field director of the American Association for Family Welfare. The first survey of an American community (Pittsburgh) was carried out under the National Committee of the New York C.O.S., predecessor of Survey Associates, Inc.—*Editor Survey.*

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and their immediate followers concentrated their activities on schooling the poor in industry, honesty, thrift and filial piety; whilst advocating, in occasional asides, or by parenthetical phrases, the moralization of the existing governing class, and its spontaneous conversion to a benevolent use of its necessarily dominant wealth and power.

The common basis underlying the principle of restricting private charity to exceptional cases, and the analogous, but not necessarily related principle of governmental *laisser faire,* is easily discovered. However well aware these estimable leaders may have been of personal shortcomings, they, unlike many of their contemporaries, had not the faintest glimmer of what I have called "the consciousness of collective sin." In their opinion, modern capitalism was the best of all possible ways of organizing industries and services; and if only meddlesome persons would refrain from interfering with its operations, the maximum social welfare as well as the maximum national wealth would be secured for the whole community. Barring accident to life and health, which happens to both rich and poor, any family could, they assumed, maintain its "independence" from the cradle to the grave, if only its members were reasonably industrious, thrifty, honest, sober and dutiful. Thus any attempt by private or public expenditure to alter "artificially" the economic environment of the manual-working class, so as to lessen the severity of the "natural" struggle for existence must, they imagined, inevitably undermine these essential elements of personal character; and would, in the vast majority of cases, make the state of affairs worse than before, if not for the individual, at any rate for the class and the race.

Thus, in the world of philanthropy as in the world of politics, as I knew it in the 'eighties, there seemed to be one predominant question: Were we or were we not to assume the continuance of the capitalist system as it then existed; and if not, could we, by taking thought, mend or end it?

THE break-away of Samuel and Henrietta Barnett in 1886 from the narrow and continuously hardening dogma of the London Charity Organisation Society sent a thrill through the philanthropic world. Canon Barnett's denunciation of indiscriminate charity in 1874 was not recanted. But during the intervening twelve years' residence in the very midst of the worst misery of the East End of London, the Barnetts had followed in the footsteps of Robert Chalmers and Edwin Chadwick. They had discovered for themselves that there was a deeper and more continuous evil than unrestricted and unregulated charity, namely, unrestricted and unregulated capitalism and landlordism. They had become aware of the employment of labor at starvation rates; of the rack-renting of insanitary tenements; of the absence of opportunities for education, for refined leisure and for the enjoyment of nature, literature and art among the denizens of the mean streets; they had come to realize that the principles of personal service and personal responsibility for ulterior consequences, together with the application of the scientific method, ought to be extended, from the comparatively trivial activity of almsgiving to the behavior of the employer, the landlord and the consumer of wealth without work. Their eyes had been opened, in fact, to all the sins of commission and omission, whether voluntary or involuntary, of the relatively small minority of the nation who, by means of their status or possessions, exercised economic power over the masses of their fellow-countrymen.

Thus without becoming socialists, in either the academic or the revolutionary meaning of the term, they initiated or furthered a long series of socialistic measures, all involving increased public expenditure and public administration, of which Samuel Barnett's advocacy in 1883 of universal state-provided old-age pensions may be taken as a type—an advocacy which, be it added, eventually converted Charles Booth, and led to his remarkable demonstration of the expediency and practicability of pensions to the aged poor. But what appealed most insistently to the rector of St. Jude's was not the provision of the necessities but that the best things be made free. "Poverty cannot pay for the pleasure which satisfies and yet, without that pleasure, the people perish". . . .

How can I make my readers see, as they are engraved in memory, the figures of Samuel and Henrietta Barnett. . . .

FIRST the Rector of St. Jude's and founder of Toynbee Hall. A diminutive body clothed in shabby and badly assorted garments, big knobby and prematurely bald head, small black eyes set close together, sallow complexion and a thin and patchy pretence of a beard, Barnett, at first sight, was not pleasing to contemplate! Yet, with growing intimacy, you found yourself continuously looking at him, watching the swift changes in expression, detached but keen observation of the persons present, followed by a warmly appreciative smile at something said; the far-away, wondering look of a questioning mind, passing suddenly and unexpectedly into emotional enthusiasm or moral indignation, and then melting back again into the calmness of an argumentative intelligence. And as an always present background for these rapid transformations, an utter absence of personal vanity, an almost exaggerated Christian humility, arising perhaps from what the modern psychologist calls a permanent "inferority complex"—an attitude especially marked towards his adored and gifted wife! What charmed his comrades at work in the East End, and I speak from personal experience, was Barnett's fathomless sympathy; his "quickness at the uptake" of your moral and intellectual perplexities; his inspiring encouragement for your strivings after the nobler self. But this nineteenth-century saint had his limitations. . . . He was, in fact, far too intent on what he conceived to be the purpose of human life—a noble state of mind in each individual and in the community as a whole—to concentrate on the processes by which this end could be reached. These shortcomings were the defects of one outstanding characteristic. Samuel Barnett journeyed through life "as if" he was in continuous communion with an external spirit of love; and "as if" man's purpose on earth was to make this spirit of love supreme in society. Men and women, however vicious or stupid they might be, were approached "as if" each one of them had an immortal soul.

Thus Samuel Barnett was not wholly representative of the mid-Victorian time-spirit: he carried over some of the mysticism of what we are apt to call "primitive christianity"; an overwhelming faith in the validity of the dominant impulse of the Christ; beneficence towards all human beings irrespective of their characteristics.

IS it an impertinence to write about one who is still with us? My excuse is that the Barnetts were an early example of a new type of human personality, in after years not uncommon; a double-star- (*Continued on page* 634)

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Horizon Lines

A Monthly Survey of Our New International Frontiers

By JAMES G. McDONALD

The World Court Won—What Next?

NOW that the Senate has voted adherence to the World Court, what is the next step? The answers are as varied as the many schools of thought or schools of feeling in the peace movement here.

Raymond Robins, Charles C. Morrison of the *Christian Century,* Salmon O. Levinson and Senator Borah will certainly continue their vigorous and stimulating campaign for the "outlawry of war."

Kirby Page, Nevin Sayre, the Quakers and the other thorough-going pacifists—the spearhead of the peace movement—will preach ceaselessly their doctrine that force is futile and unchristian.

Greatly encouraged by the Court victory, Justice Clarke, Raymond B. Fosdick and their associates in the League of Nations Non-Partisan Association, will intensify their efforts to bring the United States into the League.

Some of the less militant pro-Leaguers will argue that whole-hearted and systematic cooperation with the League, as for example in disarmament, rather than entrance into the League, is the logical first move.

Others will insist that in view of the vital issues disclosed by the rubber controversy, preliminary moves towards an international economic conference, either under the auspices of the League or otherwise, are now of primary urgency.

Mr. Bok's American Foundation, under the direction of that vigorous individualist, Esther E. Lape, will, when it has decided upon its new program, organize support for it energetically and on a national scale.

Already Carrie Chapman Catt, that redoubtable warrior against war, has launched a campaign for a "Japanese Locarno" as a proof that we as a people are willing to arbitrate our differences with a great power even when such differences are likely to be important.

Is it not possible that all or at least most of the organizations which to such a surprising degree united their forces in behalf of the World Court, may again unite their efforts on some clear-cut objective? There has as yet been little opportunity for a general exchange of views. An agreement on the role the United States should play in the forthcoming disarmament conference seems possible. If the peace forces can again be drawn up in a practically unbroken line on this or any other common issue, it will for a second time give decisive answer to the charge so often made by cynics and militarists that those who would maintain peace throughout the world cannot even maintain peace among themselves.

The smoke of the Court battle is clearing away. The threat of Senators Borah, Reed and Moses to carry on the fight cannot amount to more than ineffective guerrilla warfare against a few of the pro-Court senators who are coming up for nomination and election this year. The irreconcilables had no effective organization during the debate in the Senate. It would be absurd to think that they could build up a fighting force now. Borah is temperamentally unfitted for such leadership. Reed of Missouri, though brilliant, is notoriously vindictive and without a following in his own party. Moses will have a desperate struggle to save his own seat.

But the Court victory was not too glorious. The irreconcilables were defeated, but senatorial pride, suspicion and arrogance were victorious. The most objectionable of the five reservations and the two resolutions with which the United States entrance into the Court is so fearfully hedged about are concessions not to the avowed enemies of the Court but to the Senate's inflated notion of its prerogatives. For example, the first resolution declares in effect that no case may be submitted by the President to the Court except after the exact terms of such submission have in each case been approved by a two-thirds vote of the Senate.

When this hamstringing of the executive was first proposed five or six weeks before the final vote, friends of effective international cooperation protested to the friends of the Court in the Senate. The response was decisive and humiliating. A leader on the Democratic side, himself an ardent public advocate of the Court, said to the writer that unless "this safeguard against executive usurpation" were agreed to, he would vote against the Court. One of his most authoritative colleagues added, "That's not all. Not a single southern senator will vote for the Court unless he is assured that no Republican administration will ever be able to refer to the Court the question of the confederate debts." There is not one chance in a thousand that any President, either Democratic or Republican, would permit an international adjudication of these repudiated state debts. None the less, the Senate seized upon this opportunity to re-assert its prerogative in its century-old fight against the White House. The certainty that a different policy would have expedited the development of intrenational judicial settlement weighed not at all with these senatorial pundits.

An even more discouraging fact was the almost complete absence of any real enthusiasm in the Senate for the Court. In either party one could count its ardent advocates on one hand. The intelligent students of the Court were still fewer. But this is not merely, or perhaps even primarily, an indictment of the Senate. It is a confession that though there was an almost unprecedented degree of support

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for the Court from all kinds of organizations throughout the country, popular enthusiasm was never really stirred. The politicians' lack of interest was symptomatic of this popular indifference. It should be added that popular hostility to the Court was almost non-existent. The persistent efforts of the Hearst press, the frantic opposition of the Washington Post and the belated campaign of the Klan succeeded only in influencing two or three weak senators.

President Coolidge fought skilfully for prompt and favorable action. Without his support the opposition's rambling filibuster could not have been stopped by the cloture vote. The tax bill would have had to be taken up, and the debate on the Court would then have been extended at least until spring, and perhaps until summer. The president, avoiding spectacular appeals, left no doubt in any Republican senator's mind that a vote against cloture and adherence would require elaborate explanations. Mr. Coolidge realized that entrance into the Court would be counted a Republican achievement second only to the Washington Conference.

THERE seems no probability that the American conditions will be rejected by the other states which are supporting the Court. The only reservation which from their point of view may be seriously objectionable is that which would prevent the Council of the League of Nations from asking the Court for an advisory opinion on any question in which the United States "has or claims an interest." Insistence on this virtual veto power was due primarily to the influence of an American jurist who has had unique opportunities to know the Court. He persuaded the leaders in the Senate that only by this categorical prohibition could American interests be adequately protected. He argued that the effect of this reservation is to give the United States openly only the same negative power which Great Britain or any of the other permanent members of the Council exercises tacitly. It is interesting to note that the phraseology of this reservation is stiffer than that which Senator Borah himself proposed to cover the same point.

Abroad, America's adherence will stir no very deep feeling. The Court is as yet not considered nearly as important as the League. Some of the great powers tend to esteem the Court chiefly because of its power to give advisory opinions to the Council of the League. The Court itself remains unaffected by our adherence. Nothing is changed except that the United States will contribute its share, perhaps $35,000 a year, towards the Court's expenses, and will take part in subsequent elections of judges. Of course, the Court's prestige will be somewhat strengthened, but not substantially unless the United States chooses to refer cases to it. Unfortunately the recent tendency of our government has been to narrow rather than broaden its commitments to submit disputes to judicial settlement!

The Court victory is important only here at home. Technically, it is not much to boast about. No one of the thirty-seven states which have ratified the Protocol which created the Court made any reservations. We have padded ourselves with protective devices as if we were entering a football match instead of participating in a parlor game, for the Court at present is little more than that. None the less, our entrance is worth all it cost the thousands of men and women who have worked for it devotedly for more than three years. If anyone doubts that, let him stop for a moment to picture the discouragement which the peace forces of the country would have felt if they had not been able to induce the Senate to make even this timid, half-hearted move.

Mussolini Rattles the Sabre

IS Mussolini a danger to the peace of the world? This query, discussed seriously for many months by students of international affairs, last month burst into the headlines. Replying to the agitation going on in the German press against the high-pressure Italianization policy of the Fascists in the thoroughly German district of the Upper Adige, ceded by Austria to Italy under the treaty of Saint Germain, the Italian Premier attacked the German government in a tone which before 1914 could have meant only war. "Italy," he exclaimed rhetorically, "is ready if necessary to carry her banners beyond her present frontiers, but back —never!" Answering the threat of reprisals and possible boycott which had been urged by the president of the Bavarian Landtag, Mussolini exclaimed that Fascismo will exact "two eyes for the loss of only one eye, and a whole set of teeth for the loss of only one tooth."

Fortunately the German Foreign Minister's reply a few days later though firm was not at all inflammatory. Charging that the Fascist program was a clear breach of the promises made at the Paris Peace Conference to respect the cultural heritage of the German population of the Tyrol, he characterized as "an impossible proceeding" the Italian threat to break the existing commercial treaties between Italy and Germany merely because a few private individuals, quite unsupported by the German government, had tried to boycott Italian goods. Most significant of all, he intimated that if Germany had been then a member of the League, it would have laid Mussolini's threat before the Council on the ground that it endangered the good relations of the two nations. The Reichstag the same day declared the right of a mother country to follow with heartfelt sympathy the fate of racially related minorities in other countries.

Mussolini's rejoinder was in substance, if not in form, a retreat. He re-interpreted his recent flamboyant language in moderate terms, but insisted that the Italian government would never allow the subject of German racial minorities in Italy to be taken up with the League. He pointed out that special provisions for these minorities had not been included in the treaty with Austria, and that, therefore, Italy was justified in treating the South Tyrol in all respects as an integral part of the kingdom.

Two particularly significant conclusions emerge from this incident. First, Germany in the League of Nations (since her application without reservations has now gone forward to Geneva, she is expected to be admitted formally at a special session of the Assembly in March) will be a vigorous protagonist of the rights of minorities everywhere. Second, the exuberance and dynamic power of Fascism which have enabled it to work its great material and administrative advances within Italy, has at the same time created a militant nationalism among the rank and file of the party, and perhaps a delusion of omnipotence in the mind of Mussolini which throw a threatening shadow over Central Europe and the Mediterranean.

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EDITORIALS

THE anthracite deadlock ended on Lincoln's Birthday, after the mines had been shut down for 165 days. Both sides lost, in the sense that exasperation with both at the long stalemate has been felt by vast reaches of the public. Yet if, as the statements of the leaders indicate, the harsh discipline of the deadlock has converted both sides to the realization that they are jointly responsible for the efficient conduct of the industry and that their fundamentally divergent economic interests can be reasonably satisfied only through the sharing of all the facts of the industry and the substitution of cooperation for conflict, the deadlock may prove to have been worth all that it has cost the industry and the community.

It is extraordinary that at the end of a struggle of such duration, the temper of the two groups toward one another should, on the surface at least, be so much more urbane and conciliatory than it was at the beginning. There were times during the deadlock when men on the operators' side of the table made no serious effort to disguise their determination to make the president of the miners eat crow and break his hold upon the rank and file by forcing him to accept a form of arbitration that would bar out the right to strike—a concession which he had declared he would never make and which as a matter of fact he has not made. It was therefore something more than a gallant gesture when Major Inglis, chairman of the Anthracite Operators' Negotiating Committee, on the day of the settlement, sent Mr. Lewis a basket of roses with a card celebrating the day not only as marking the end of the strike, but also as Mr. Lewis's birthday and that of "another great American, Abraham Lincoln."

One of the traditions of the coal industry which the operators have most rigidly held is that the management of the mines and the direction of the working force are vested exclusively in them. In theory, if not always in fact, they have opposed every attempt of the miners to infringe their exclusive responsibility for the technical and financial conduct of the industry. The most significant fact about the new agreement is that it puts explicit end to this tradition. The fourth article of the treaty of peace provides that "the demands of the operators and the mine workers on the question of cooperation and efficiency are referred to the Board of Conciliation, exclusive of the umpire, which shall work out a reciprocal program of cooperation and efficiency." The interest of the miners in questions of management is here not so much recognized as a right, but as an essential to the peaceful and constructive development of a common enterprise. In commenting upon this article, Mr. Lewis refers to it as marking "the dawn of a new era in the anthracite industry" and appeals to both operators and miners to make the most of the opportunity for constructive cooperation which it gives them.

IN fulfilling its obligations under this most significant article of the agreement, the Board of Conciliation will undoubtedly be influenced by the experiment in union-management cooperation initiated three years ago by the International Association of Machinists and President Willard in the locomotive repair shops of the Baltimore and Ohio Railroad, and which, taken over by the Federated Shopcrafts of the Railway Employes Department of the American Federation of Labor, has spread to the Canadian National, the Chicago and Northwestern and the Chesapeake and Ohio systems. The progress of this experiment was made the subject of an authoritative public review before a joint meeting of the Taylor Society and the Metropolitan Section of the American Society of Mechanical Engineers, held in New York on February 5. Sir Henry Thornton, president of the Canadian National Railways, bore enthusiastic testimony to the results produced by his eager acceptance of the unions' proffer of technical cooperation; Bert M Jewell, president of the Railway Employes Department of the American Federation of Labor, stressed the fact that as the result of engaging the interest of the men in the technical and financial problems of the railroads,

> minor grievance cases on the Baltimore and Ohio and the Canadian National have been more than cut in two, and as for appeal cases—those which are not settled locally on the ground where they originate—these have been reduced by approximately 75 per cent.

This joint meeting was a sequel to a meeting held in December under the auspices of the Taylor Society and the Management Division of the American Society of Mechanical Engineers at which President Green of the American Federation of Labor, setting aside organized labor's traditional suspicion of scientific managers and technical experts, expressed his conviction that the time had come when through mutual confidence and understanding, "all the associated productive powers of industry can be mobilized into an economic, sustained, impelling force through which economy in production may be completely accomplished . . . and the rewards of the efforts of all those associated with the industry can be equitably distributed." The last annual convention of the American Federation of Labor turned a new leaf in the history of the organized labor movement by adopting cooperation with management in the elimination of waste

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and the regularization of employment as the present official policy of the Federation.

Viewed against the background of this record, Article IV of the new anthracite agreement may fairly be interpreted as the expression of a new spirit and purpose in the trade unions, and of the operators' readiness to follow the precedent established by President Willard, Sir Henry Thornton and other railroad executives. But cooperation in the sense illustrated by the Baltimore and Ohio experiment will require something more than good will and the good offices of the Board of Conciliation. It will need the development by both sides of a technical and research staff capable of making available to the Board and to the parties scientifically ascertained facts by which those responsible for the formulation of policies must be guided if the tradition of conflict is to yield to a tradition of joint responsibility. Moreover, such cooperation assumes not only the readiness of the workers to interest themselves in efficient production and the elimination of waste but also the readiness of the operators to make all the financial and technical facts of industry freely available.

It will be recalled that the deadlock just ended began when the operators refused to consider the miners' demands for wage increases on the ground that they would increase the cost of production and so increase prices and that any further increase in the price of anthracite would drive consumers to substitutes and so destroy the anthracite market. The miners denied that an increase in wages need necessarily increase the cost of production or that a moderate increase in the cost of production need necessarily increase prices. They contended that by improved methods and by the elimination of excess profits the operators could meet their wage demands without putting additional burdens upon the consumer. The debate became academic because no one knew the uncontested facts.

Under a thoroughgoing plan of cooperation such as Article IV of the present agreement implies, a deadlock on such an issue could hardly again occur. Indeed, facts and a sense of common responsibility for the conduct of the industry are surer guarantees of peace and efficient public service than any system of arbitration not created by free common consent and evolved out of the practical needs of the industry. If now the operators and miners really take advantage of the opportunity for developing team-work and mutual confidence, the deadlock of 1925-26 will indeed mark the dawn of a new era in the anthracite industry.

"HAPPY the pleader," writes Robert W. Kelso, "who can adduce in support of his position a decision of the Massachusetts Bench. This honored leadership of the New England Court is due not alone to freedom from the elective system—which has brought our judiciary in many other states under the dour shadow of political preferment—but also to an enviable record for learning and wise decision which the judges of Massachusetts have enjoyed since the days of the Colony."

When therefore a mere Registrar of Motor Vehicles, discovering numerous irresponsible persons on the Bay State highways, seeks to remove them by the simple expedient of sending them all to prison, he finds himself face to face with this same honored judiciary, since to accomplish this simple metamorphosis he must set aside probation; he must discourage parole; nay, even, he must forbid the suspended sentence. For all of which advances in the administration of criminal justice the judges have been sponsor and nourisher-in-chief.

But the Registrar's method is as simple as his problem—simpler! He will pass a law—many of them if need be! He has an even dozen bills now pending before the legislature. They expressly abolish these three great reforms in the criminal law in all cases but those of the first offender. They go back in their spirit to the day when all men were deemed alike in mental capacity, and ignore the damaging fact that two-thirds of all our convicts are either mentally subnormal or psychotic. They forget as a bagatelle the million and three quarters in cash collected each year by the probation officers of Massachusetts from non-supporting husbands under the suspended sentence. They would trust neither court nor prosecuting attorney. They have faith in none—unless it be a Registrar of Motor Vehicles.

The Registrar, in his effort to sweep the dung off the polished highways of his commonwealth, has attacked the judges and the administrators of the criminal law. A sounder course would have been a drive at the penal system itself. Faults aplenty there are—in the system. But they cannot be got at by accusing the trustees who have that system in charge.

So the Puritan spirit of the New England townsfolk strides about with his broad brimmed hat and his heavy stick, saying little but thinking much, realizing that probation, parole and the suspended sentence, far from being the coddling they are alleged to be, are enlightened measures of severity, in comparison with which a short sentence in a county jail or perchance an acquittal are leniency itself. This old Puritan is not in the habit of legislating right off-hand.

UNUSUAL significance attaches to the fifteenth annual conference of the National Urban League, which was held February 3 to February 5 at New York city, headquarters of the national offices. Over two hundred delegates and representatives of the executive staffs of its forty local branches in the chief western, mid-western and eastern cities conferred on the problems of race adjustment with special concentration upon the problem of the Negro in industry. The program of the Urban League pivots upon two factors of increasing importance in the American race situation—the economic attack on the problems of race adjustment and the agency of inter-racial councils and committees. In the latter regard it differs somewhat radically from the Interracial Commissions of the southern states and cities, in having professionally trained experts as active executives at its various centers. Thus, though it has a common conciliatory policy with these organizations based on race cooperation, the League has through its technical and scientific approach brought to bear upon the race question the most sustained modern and practical influence that has yet been

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organized. This program was far-sightedly started in advance of a need which the migration of Negroes to the industrial and city centers has made so acute that we must view the National Urban League as bearing for the moment the brunt of the active present-day program of adjustment; and therefore, as being one of the most useful social work agencies of the country.

The conference, officially welcomed by Mayor Walker, and with the health and police commissioners and both the municipal and state labor departments actively participating, demonstrated that more and more emphasis is being put on concrete problems and expert guidance in their solution. Executive representatives of the American Federation of Labor were present to discuss the attitude of that organization to the pressing problem of the Negro skilled and semi-skilled laborers, and a preliminary report was made by Charles S. Johnson, director of research of the League, upon a survey now being made on the relation of Negro workers to labor union organizations. Substantial progress was reported both in the policy of the unionizing of Negro laborers and in their actual affiliation with the unions; although there is still a reactionary policy of exclusion in four of the skilled unions. There was reported a growing demand among Negroes for organization and an encroachment upon the labor market which had forced a radical change in the attitude of the labor unions.

The reports of Eugene Kinckle Jones, executive secretary, and Hollingsworth Wood, president, indicated an unusual growth and extension of the work of the League both from the point of view of a largely increased national budget and a significant endorsement of the work by local communities in the adoption of twenty-seven of the local Urban Leagues by community chests. The consensus of the reports was that occupational problems, both in public welfare work and in public education, were the pressing problems of the Negro of today, and that the neutral laissez-faire attitude of big industries, municipal departments and labor organizations must speedily be changed to a positive and constructive program with respect to the masses of Negroes now moving so rapidly to urban centers and the zone of the mechanical industries.

NOT the least part of any program for the prevention and control of crime is that which makes provision for the competent defense of persons who are accused of wrongdoing or actually haled into court. People with money and influence can turn easily to a skilled practitioner of law who will see that they get their legal desserts; while the poor too often become the victims of unscrupulous shysters, or, bewildered, fail entirely to avail themselves of the safeguards which are necessary to the orderly course of justice whether they are guilty or innocent. For this reason the defender, public and supported by taxation, or private and supported by philanthropic funds, has become a part of the legal organization of some cities. There are public defenders, for example, in Los Angeles and San Francisco, California; Bridgeport, Hartford and New Haven, Connecticut; Omaha, Nebraska; Memphis, Tennessee; and Norfolk, Virginia; while a committee of the Chicago Bar Association and the Voluntary Defenders Committee of the Lega Aid Society of New York city furnish voluntary or privately supported legal defense for indigent persons accused of crime

As an indication of the service which a defender ma perform by combining legal with social forces, the work o the Voluntary Defenders Committee in New York city i a fair example. For nearly ni.e years it has functioned i the Court of General Sessions, New York County, represent ing annually about five or six hundred persons charged wit felonies who are without funds to employ counsel. It als does considerable advisory work, not involving court appear ance, in miscellaneous cases. For the first three years, 191 to 1920, it was a separate body. In the latter year it wa affiliated with the Legal Aid Society to carry on the wor in the criminal field. Because of lack of funds the wor still is limited to the nine parts of the Court of Genera Sessions, but there is hope that it may be extended to th Court of Special Sessions (misdemeanors) and possibly t the Magistrates' (police) Courts.

The founders of the Voluntary Defenders Committee con ceived of it as both legal and social in its functions. B utilizing the services of social agencies in every part o the United States, and occasionally abroad, the work ha won the repeated endorsements of the judges and distric attorney, as well as that of clients and their friends. Th cooperation of social agencies has developed a service whic is perhaps unique in the field of criminal work.

The advantage claimed for the voluntary over the publi defender lies in its non-political character, its stability o make-up and policy, and the possibility of immediate chang when necessary. On the other hand the public defende has at least potentially, a larger financial support, and put competent legal defense within reach of the accused perso without money, as a right, as part of the process of justic rather than a charitable gift. While the office of th defender is still in its infancy on the social side, it offe promise of great possibilities in yielding valuable materia for the study of the causes of delinquency, and of th methods of the courts in dealing with specific crimes an types of offenders.

Still another procedure which aims to benefit both th legal profession and the public is the establishment of leg clinics, in which young students of law may work und supervision as medical students both learn and serve i medical clinics. Such clinics already have been establishe in connection with the law departments of the Universit of Minnesota and of Northwestern University in Chicago and probably will soon be opened in connection with on of the universities in New York city. In each case th local Legal Aid Society cooperates with the law schools b receiving the students assigned to it, and directing the conduct of the cases which are turned over to them. Thi kind of clinical experience is of obvious advantage to th student, in preparing him for conditions as he will mee them in his own practice; it permits, moreover, an extensio of the services of the Legal Aid Society for persons who can not afford to pay counsel fees. The Society offers the oppo tunity of a magnificent laboratory: the New York offic the largest law office in the country, handled some 40,00 cases last year, involving almost every branch of the law Aside from its primary object of service, it offers unequalle facilities both for instruction and for research in th effectiveness of methods of legal practice.

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Letters & Life

In which books, plays and people are discussed

Edited by LEON WHIPPLE

Americanization in Print

THE foreign language press of the United States is on the carpet again. One of the "security" societies has been seeing things at night, and makes a plea for the passage of a law requiring every foreign language paper in the United States to print part of its contents in English and to insert regularly interpretations of our Constitution and form of government. The object is to spread 100 per cent Americanism and guard against foreign language propaganda subversive of our institutions. These timorous gentlemen are probably more ignorant than malicious. So we suggest that the law needed is one to further their own enlightenment. Such a law should contain two provisions: first, that every member of any Americanization society be required to learn enough of one foreign language to read its newspapers in America and so release himself from the parochial dread of a thing merely because he does not understand it; and second, that he be required to read the Constitution annually until he can recite the Bill of Rights, and so discover the free press guarantee of the First Amendment.

This ignorance is inexcusable for testimony as to the value and patriotism of the foreign language press is easily available, in English, from both the journalist and the social expert on our alien populations. Robert E. Park in his book The Immigrant Press gave us a full study of the origins and nature and services of these papers. He found nothing subversive in them, but a need for all the help and understanding we can give. Don Seitz, once aid to Joseph Pulitzer in making the New York World and now Contributing Editor on The Outlook, prints in that weekly for February 3 as one of his series on the American Press, an appraisal and endorsement of the foreign language press. And no American journalist has more practical knowledge or wider experience than Don Seitz. He says: "The foreign language press performs a great and useful part in preparing its readers for final amalgamation."

The most important liaison between the foreign language press and the American press and its readers is the Foreign Language Information Service. Through its sixteen bureaus where nearly a thousand foreign language papers are read day by day, it has gained a knowledge of this group of which our security societies might well take advantage. It does several supremely valuable things among them the precise thing this proposed legislation pretends to seek. It furnishes releases to the foreign language press to help them understand and love America. *But,* it translates them into the language of each group so the editor can use them and the readers read them. Moreover, it tries to interpret the spirit of America as well as its machinery. It has even found it worth while going into geography and literature to help the immigrant grasp his new home and traditions, and it has shown the high wisdom of sending out material on baseball, the national sport, as well as on the national anthem. For the processes of assimilation are at work in innumerable fields. Moreover, what is sent is sent not as a disciplinary regimentation in abstract patriotism but as a service.

The foreign language press has its faults as all these observers will admit. It is sometimes venal (as is the American press) and some of it will take bad advertising or line up for a political party at a price. A small group of papers may be definitely anti-American in economic or political theory. There are surely anarchist and communist sheets that denounce governments and use their pea-shooter on Uncle Sam. But they produce only noise, are perhaps healthful safety-valves, and in influence are practically negligible in the large mass of solidly patriotic papers. I dare affirm that the most of the foreign language papers are more conservative than the English papers, and outdo Americans in their devotion to the basic ideals and traditions of the nation. They came here to find liberty and they are not disillusioned, cynical, and captious as are many native editors.

It is significant that the German press has declined in numbers and power, partly because of the reactions of the war, but also because the Germans have mostly become Americans and read American papers. The second, English-reading generation among us does not want a foreign language paper; and the final workings of the immigration law with a dwindling influx of new aliens will see a like dwindling of the foreign language press. There will be no new reading public for them. This will not be without its loss, for the first step in Americanization by print seems to be to give up the foreign language paper that is often serious, public-spirited, and interested in culture, for a tabloid full of pictures and frothy sensationalism. Indeed, the picture papers capture the immigrant before he masters any English, for pictures are a universal language. The security societies might find an occupation protecting the immigrant from certain American newspapers.

The problem is like most problems a matter of understanding, and it is as much America's duty to understand the foreign born as it is to force him to "Americanize" himself. How can he do that without our help? The American press has been remiss in not seeking to interpret the immigrant to the native. Had it even undertaken the task of understanding its own foreign language colleagues such silly proposals as the text of this article would never be made.

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Not Art and Not Model

I HAVE been to see Artists and Models, the revue at the Winter Garden, in which, according to rumor, public nakedness had achieved its extreme limit in America. It seemed worth doing, for public nakedness in a respectable theater is so new to our civilization that it deserves sober thought from the artist, the educator, the moralist, and, I rather think, from the psychiatrist. I am none of these things, but a plain man of safe middle-age and mid-Western tradition, with a dash of esthetic culture, and a predilection for decency as a matter of taste rather than Puritanism. "Shabby genteel" is, I fear, my true label in these days of the new arts and the new riches. So Artists and Models was rather an adventure.

Rumor was right: for a not excessive price, men, women, and adolescents can go into a lovely New York theater on Broadway and see naked bodies, generally of women, under full lights with nothing on save what antique writers called a "zone." The rest of the body is completely and absolutely nude, with scarce the alleviation of a coat of powder. The bodies are exposed as statues, figurines, and symbolic persons, with recurrent veilings and for brief flashes. The showmanship is deft and even discreet though the shadowy lighting of yesteryear has given way to the full flood. The exposure of the body lasts probably not five minutes out of the three hours, though there is a constant and cloying stream of lesser bareness—legs, backs, torsos, and anatomical odds and ends. To these latter we have already been acclimated for the unveiling has been going on in New York for several years, almost by fractions of inches as the producers tried out the public taste. Indeed, the student might find a thesis in social science in the scrutiny of this process of breaking down a convention by annual innovation. Apparently Artists and Models is not the climax for it is said that a recent revue is even more unadorned. But it is a sufficient text.

I was not shocked save at the recognition of how standards had changed since the days of my youth when the good citizen preserved a strict incognito when he stole away to the burlesque show with its buxom ladies in tights. As a show the thing seemed to me a bore, not so good as other revues. After my slight curiosity was satisfied I would have left—had I not been on a philosophical mission! To me and I think to the rest of the audience the nakedness was not suggestive; it was too frank, and if you are frank enough it is hard to make the human body suggestive. It possesses its own dignity. At moments the stage conveyed intimations of real beauty though generally the lack of any sincerity of imagination or purity of taste produced only an irritating tawdriness. Beauty here would demand a Grecian delicacy and innocence of intention that can hardly be demanded of Broadway revue-makers. But in technique and treatment they introduced no very gross matter—perhaps for self-preservation against legal interference, more probably because the audience did not want that, here.

THE objection is so to speak negative; Broadway as usual achieves so little with its audacious freedoms. We grant these managers the free use of the human body, all our armory of light and stage effects, every ancient and modern device—and they produce a bore! We have a right to expect stage pictures of breathless charm and poignancy as if they had walked off the frieze of Keats's Grecian urn. They look as if they had walked off the bill-boards. We are not educated in the beauty of the body as were the Greeks; it has been too long unnatural for art use. We are merely shocked or distracted or fall into hygienic or moral musings when we view nakedness for we cannot dissociate it from its function and so win the immediacy of esthetic joy we get from a rose or a sunset. There is much that is cruelly practical about the body, and we need veils and conventions from behind which the primitive can stalk us. But it is not posible for Broadway to perceive that you may go too far, not only for the Puritan, but for the artist. For it shares the general American faith in the multiplication table—ten inches of bare throat is lovely, then three hundred inches of bare body is thirty times lovelier. We understand little of the spirit, of the quality behind things.

The text and comedy of the revue was far worse than its nakedness. The patter about marriage, love, ideals, romance, is of a horrid cynic lewdness. There is no faith or dignity here. The naked bodies might well veil themselves with shame before the naked words. The mind and wit of man reveal themselves as more bestial than his body. Whatever the effect of nakedness, there can be no question that the view of love and marriage conveyed by our revue and vaudeville stage, and by the movies, is ruinous and debasing. Its highest note is maudlin sentimentality. If a censor ever was intelligent he would expurgate certain words before banning the naked bodies.

The audience must have had its lesson for the philosopher, but I found none save the question: why in the world had they come? They were not abashed at what they saw, or seemingly very much amused. About three-quarters of them were men—butter and eggs men from Kankakee, or just as likely cloak and suits men from Fifth Avenue, and mostly of that weary brotherhood of men about town and about the village and about the farm for whom the smutty story and the flash paper and bare legs are provided. They came, not because they were gay dogs, but because they weren't, and here was a commercial offering of gay dogginess at a price. How dull the lives of all these people must be! I think most everybody left about as he or she came in, with their little-boy naughtiness, their sense of adventure, their basic ignorance and distrust of the body, and their animal instincts much as they were? They got no moral from the show, nor wanted one, but they were I suspect, no more immoral than before, or more likely to transgress whatever codes they live by.

BUT there are morals to be gained from Artists and Models—or at least questions that prick the memory. What about the girls who offer their beauty for the show? What happens to them when the little moment of fleshly pride is done? Mayhap there is case-work of a subtle sort to be done here. What is the deeper biological effect of the nakedness—its eugenic interpretation, so to speak? Are the young of the species being demoralized by such exhibitions? Where is the censor, and what could he do if he wanted to do something?

I don't know the answers, but I do know this: unless you are very curious, you won't miss anything if you stay away from Artists and Models . . . and maybe that is the answer to the other questions.

LEON WHIPPLE

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Crime and Its Cure

By J. L. GILLIN

AFTER every war and every great industrial change which has upset society crime has attracted attention either because of its supposed increase or by reason of new forms. Thus, after the Black Death in England about 1348, stringent laws passed against "sturdy rogues and vagabonds" register the aroused consciousness of England as to crime. Following the Industrial Revolution of the latter part of the eighteenth century in England and the Napoleonic Wars about the same time the increase of crime called forth the Australian penal transportation scheme and the building of English convict prisons. The social, economic and political upheavals following the World War have again centered attention upon the problem of crime. Popular outcry has been stimulated recently by an increase in certain kinds of crime. Coincident with the upheavals following the War is the growth of the use of automobiles and improved arms. The horsethief has given place to the autothief, the safe-cracker to the bandit gang using swift cars and modern rapid-fire guns.

The following books deal with the subject in some measure although they are concerned more fundamentally with the causes of crime and the methods of treatment.

Aschaffenburg's Crime and Its Repression while an old book still has great value to the person who desires a balanced view of crime and criminals. It deals entirely with the situation in Germany before the war but its treatment is so sound that any careful thoughtful person should be acquainted with it.

E. H. Sutherland's Criminology is a brief recent study of the criminal and his treatment, reviewing in a very careful way the literature on the subject. William Healey's study of a dozen years ago, The Individual Delinquent, still remains the most careful intensive study of the factors entering into the making of the delinquent. My own Criminology and Penology, which has just come off the press, is intended to be a survey of the latest knowledge concerning the criminal and the experiments which have been tried in dealing with him.

Anyone interested in the prison situation in England cannot ignore the book by Hobhouse and Brockway entitled English Prisons Today. It was the report of a prison system inquiry committee and is the most balanced and thoroughgoing of the English prison system now available.

Three recent books register the disturbance of established methods of trying the criminal, and throw light also upon methods of treatment. Dr. S. Sheldon Glueck's new book on Mental Disorder and the Criminal Law is a thoroughgoing piece of scholarship in the attempt to make the connection between the new psychiatry and the operation of the criminal law. It is one of the most important books of the past year. The book by Hoag and Williams entitled Crime, Abnormal Minds and the Law and the one by White, Insanity and the Criminal Law are somewhat older books than Glueck's but bring to bear modern knowledge of psychiatry upon the problem of the legal treatment of the criminal.

Pound's and Frankfurter's Criminal Justice in Cleveland is the most careful study of the administration of justice certainly of any American city and perhaps of any city in the world. No other book gives such a clear picture of the whole machinery of justice in our American cities. It is to be hoped that it will be widely read and that the proposals suggested in this report will find adoption widely in the large cities of America.

Two books of quite a different character are A Friend at Court by Leon and Elizabeth Stern and Children Astray by Saul Drucker and M. B. Hexter. The first weaves into the form of a story the work of a juvenile court and the probation officers connected with it. It gives a vivid picture of the problems of the court and probation officers as well as the factors which enter into the making of juvenile delinquents. The other book is a series of case records, which by means of good description and dialogue picture the social making of difficult children and the subtle alchemy of transformation of bad children to useful citizens. It has the additional merit that it is frank enough to present pictures of several failures. It is especially valuable in showing how an institution may serve a useful purpose in the reclamation of children who have started upon a career of delinquency.

Professor Gillin Recommends

MENTAL DISORDER AND THE CRIMINAL LAW, *by S. Sheldon Glueck. Little Brown and Co.*, 1925. $7.00.

CRIME AND ITS REPRESSION, *by G. Aschaffenburg. Little Brown and Co.*, 1913. $4.50.

CRIMINOLOGY, *by E. H. Sutherland. J. P. Lippincott Co.*, 1924. $3.50.

THE INDIVIDUAL DELINQUENT, *by William Healey. Little Brown and Co.*, 1915. $7.00.

CRIMINOLOGY AND PENOLOGY, *by J. L. Gillin. Century*, 1926. $4.50.

ENGLISH PRISONS TODAY, BEING THE REPORT OF THE PRISON SYSTEM ENQUIRY COMMITTEE, *edited by Stephen Hobhouse and A. Fenner Brockway. Longmans, Green and Co.*, 1922. $8.50

CRIME, ABNORMAL MINDS AND THE LAW, *by Ernest Bryant Hoag and Edward Huntington Williams. Bobbs-Merrill Co.*, 1923. $5.00.

INSANITY AND THE CRIMINAL LAW, *by William A. White. Macmillan*, 1923. $2.50.

CRIMINAL JUSTICE IN CLEVELAND, REPORTS OF THE CLEVELAND FOUNDATION SURVEY OF THE ADMINISTRATION OF CRIMINAL JUSTICE IN CLEVELAND, OHIO, *directed and edited by Roscoe Pound and Felix Frankfurter. The Cleveland Foundation, Cleveland*, 1922. $3.75.

A FRIEND AT COURT, *by Leon and Elizabeth Stern. Macmillan Co.*, 1923. $2.00.

CHILDREN ASTRAY, *by Saul Drucker and Maurice B. Hexter. Harvard University Press.* $3.50.

These books may be ordered of The Survey, postpaid, at the prices here noted.

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CRIME WAVES AND CRIME REMEDIES

(*Continued from page* 597)

or of the steps that must be taken to fit it to the requirements of the new day. In no other field of social endeavor do we expect to effect a radical improvement without deep study based on full information of underlying causes. There are great national organizations for economic and industrial research. The movement for the conquest of disease has behind it the vast resources of the Rockefeller and of a dozen of our great universities. But in the warfare against crime we are still, for the most part, compelled to rely on the primitive method of trial and error—succeeding here, failing there, we know not why. Fortunately this hit-or-miss policy is passing even in this field. Into our darkness there are thrown a few rays of light from points as far apart as Boston and Los Angeles. The National Committee for Mental Hygiene has for several years been making a study of the mental equipment of the inmates of our prisons. The American Institute of Criminal Law and Criminology needs only the funds necessary to carry out its well-laid plans for research into the workings of our system of criminal administration. Dean Pound raises his voice for the endowment of research in our law schools to the end that our projects of legal reform shall have a sound basis in thorough, impartial, scientific study. There is increasing demand for a similar endowment for the organization and promotion of research into the personal and social factors that enter into the production of delinquency. As this paper goes to press it is reported that the New York legislature, under the inspiration of the National Crime Commission, is contemplating "a study of underlying conditions and of preventives of crime" in that state with the view of effecting "a country-wide warfare not only on the criminal but also on social conditions fostering crime."

Let us take courage. We are at last on the way to the solution of this hoary problem. We *shall* do something about crime. That hardy annual, the crime-wave, is our opportunity. As we now lead the civilized world in crime, so shall we lead it in the understanding and the wise treatment of crime.

"SEND THEM UP"—TO WHAT?

(*Continued from page* 601)

our states can attack their own prison problem effectively, if they will, but only by organized effort under expert direction. Such an attack might follow these lines:

1. Organization of a state society and subsidiary local societies.
2. Appointment of a high-caliber, well-trained man as director or executive secretary.
3. Analysis of the prison problem by surveys in which the services of doctors, manufacturers, church men, educational experts, trained prison men (preferably from outside the state) and other experts in various fields can be utilized.
4. Dissemination of fearless and authoritative information by printed material, public addresses, motion pictures, state and local conferences, and other agencies of public information.
5. Preparation of remedial legislation and stimulation of public opinion in support of it.

We have long enough bewailed the ineffectiveness of our prisons. It is time that we attacked the problem as we have others, by expertly directed organization. In several states this is being done. Such an organization, the Pennsylvania Committee for Penal Affairs, has been doing effective work for several years. It has taken us over a century, however, to reach the point where we now are in penal methods. We must be ready to think in terms of decades in our plans for further advance.

MY APPRENTICESHIP

(*Continued from page* 625)

personality, the light of the one being indistinguishable from that of the other.

At nineteen years of age, pretty, witty, and well-to-do, Henrietta Rowland married the plain and insignificant curate who was her fellow-worker in the parish of St. Marylebone. In many of her characteristics she was the direct antithesis of her husband, and, exactly on this account, she served as complement to him, as he did to her.

Assuredly she was not hampered by any "inferiority complex!" A breezy self-confidence, a naïve self-assertion—sometimes to the border-line of bad manners—was her note towards the world at large. Lavishly admiring, loving and loyal towards friends and comrades, her attitude towards those whose conduct she condemned—for instance, towards the heartless rich, the sweating employer, or the rack-renting landlord—was that they required "spanking," and that she was prepared to carry out this chastisement, always assuming that she thought it would lead to their reformation! She may have been influenced by her husband's mysticism, but her native bent was a rationalist interpretation of the facts of life. . . . For all the business side of philanthropy, for initiation, advertisement, negotiation and execution, her gifts rose at times to veritable genius.

The result upon my mind of the controversy between the rigid voluntaryism of the Charity Organisation Society, on the one hand, and on the other, the empirical socialism of Samuel and Henrietta Barnett, was a deepening conviction that the facts collected by philanthropists—by small groups of heroic men and women struggling, day in and day out, under depressing circumstances, with crowds of destitute persons clamoring for alms—were too doubtful and restricted to lead to any proven conclusion as to the meaning of poverty in the midst of riches. What was the actual extent and intensity of this destitution? Could it be explained by the shortcomings of the families themselves, aggravated by the thoughtless almsgiving of the rich? And in the case of admittedly deserving persons, was the destitution existing in East London confined to particular areas, or to groups of families exceptionally affected by epidemics or by temporary dislocations of trade? Or were we confronted, as the socialists were perpetually reiterating, with a mass of fellow-citizens, constituting a large proportion of the inhabitants of Great Britain, and made up of men and women of all degrees of sobriety, honesty and capacity, who were habitually in a state of chronic poverty, and who throughout their lives were shut out from all that makes civilization worth having?

NOW, every man is apt to overrate the significance of an event with which he has been intimately associated. But the grand inquest into the conditions of life and labor[1] of the four million inhabitants of the richest city in the world—an investigation carried on by Charles Booth (entirely at his own expense) over a period of seventeen years and published in as many volumes—seems to me to stand out as a landmark alike in social politics and in economic science. Prior to this enquiry, neither the individualist nor the socialist could state with any approach to accuracy what exactly was the condition of the people of Great Britain. Hence the unreality of their controversy. In comparison with preceding social researchers, I suggest that his method of analysis constitutes, if not the starting-point, certainly the first sign-post directing the student on one of the main ways to discovery.

[1] This huge enquiry, begun in 1886, resulted in a series of volumes the publication of which extended over many years. The first volume, dealing with the East End of London, appeared in 1889; and those relating to Central and South London in 1891. These were included, in 1902-3, with the remaining results of the enquiry, in a new and definitive edition entitled *Life and Labour of the People in London*, in which the subject-matter was rearranged, revised by the 1891 census, and extended to seventeen volumes. These volumes comprised four on "Poverty" (which I shall cite as Poverty i. to iv); five on "Industry" (Industry i. to v.); seven on "Religious Influences" (with which I do not deal except incidentally to the poverty and industry enquiry); and a "Final Volume" entitled "Notes on Social Influences and Conclusion" (to be cited as Final); together with a case of colored maps, mounted and divided into convenient sections.

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It was, I think, in the late 'seventies, that my cousin brought her husband[2] for the first time to stay with us. I recall with some amusement the impression made on a girl's mind by this interesting new relative. Nearing forty years of age, tall, abnormally thin, garments hanging as if on pegs, the complexion of a consumptive girl, and the slight stoop of the sedentary worker, a prominent aquiline nose, with moustache and pointed beard barely hiding a noticeable Adam's apple, the whole countenance dominated by a finely-moulded brow and large, observant grey eyes, Charles Booth was an attractive but distinctly queer figure of a man..

Observed by a stranger, he might have passed for a self-educated idealistic compositor or engineering draughtsman; or as the wayward member of an aristocratic family of the Auberon Herbert type; or as a university professor; or, clean shaven and with the appropriate collar, as an ascetic priest, Roman or Anglican; with another change of attire, he would have "made up" as an artist in the Quartier Latin. The one vocation which seemed ruled out, alike by his appearance and by his idealistic temperament, was that of a great captain of industry, pushing his way, by sheer will-power and methodical industry, hardened and sharpened by an independent attitude towards other people's intentions and views—except as circumstances which had to be wisely handled—into new countries, new processes and new business connections. And yet this kind of adventurous and, as it turned out, successful profit-making enterprise, proved to be his destiny, bringing in its train the personal power and free initiative due to a large income generously spent.

Though I gather from his *Memoir* that business organization was the career of his choice, Charles Booth had also the scientific impulse, in his case directed towards the structure and working of society. Without the specific genius of Charles Darwin and Francis Galton for imaginative hypothesis and for verification by observation, experiment and reasoning, he likened these two great scientists in possessing, in a high degree, the scientific temperament: an overpowering curiosity about the nature of things; originality in designing ways and means of research; and above all, a splendid courage and persistency in the pursuit of knowledge. He delighted in upsetting generally accepted views, whether the free-trade orthodoxy of Manchester capitalism, at that time in the ascendant, or the cut and dried creed of the Marxian socialist. Indeed, if he had a bias as an investigator, it was in favor of the unlikely and unpopular explanation of a given series of facts. And combined with intellectual curiosity was the positivist conception of the service of man.

In short, Charles Booth was, within my circle of friends, perhaps the most perfect embodiment of what I have described in a former article as the mid-Victorian time-spirit—the union of faith in the scientific method with the transference of the emotion of self-sacrificing service from God to man.

In selecting his subject for investigation he was influenced by exactly the currents of thought and feeling, notably the controversies in the worlds of politics and philanthropy, which I have described in the foregoing pages. Settled in London, where he had opened a branch of his shipowning and merchant business, he became aware of the new ferment.

It is the sense of helplessness that tries every one [he explained in a paper read before the Royal Statistical Society in May 1887]. The wage-earners are helpless to regulate or obtain the value of their work; the manufacturer or dealer can only work within the limits of competition; the rich are helpless to relieve want without stimulating its sources; the legislature is helpless because the limits of successful interference by change of law are closely circumscribed. From the helpless feelings spring socialistic theories, passionate suggestions of ignorance, setting at naught the nature of man and neglecting all the fundamental facts of human existence.

To relieve this sense of helplessness, the problems of human life must be better stated. The à priori reasoning of political economy, orthodox and unorthodox alike, fails from want of reality. At its base are a series of assumptions very imperfectly connected with the observed facts of life. We need to begin with a true picture of the modern industrial organism, the interchange of service, the exercise of faculty, the demands and satisfaction of desire.

[2] In 1871 Charles Booth married the attractive and accomplished daughter of Charles Macaulay (brother of the historian), who happened to be my cousin and who had met him for the first time at the house of my eldest sister.

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Sincerely yours,
S. S. CLEMENS,
"Mark Twain."

MOTHER M. ALPHONSA LATHROP, O. S. D.
Treasurer
Servants of Relief for Incurable Cancer.
The Wooden Rosary Hill Home,
Hawthorne, Westchester Co., N. Y.

THE East End of London, an area made up of the Towe Hamlets and the Hackney School Board divisions, an comprising one million inhabitants, was first surveyed. H chose this particular district of the Metropolis, one-quarter o the whole, because, to cite his own words, "it is supposed t contain the most destitute population in England, and to be as it were, the focus of the problem of poverty in the midst of wealth, which is troubling the minds and hearts of so many people" [Poverty, i. p. 26].

How did Charles Booth obtain the mass and range of data required to complete this scientific exploration into the life and labor of the people of London as a whole? He concentrated on two series of facts; first, the relative destitution poverty or comfort of the home, and secondly, the character of the work from which the various breadwinners in the family derived their livelihood. Thus there were two separate and distinct enquiries carried on concurrently, each involving its own group of investigators and its own methods of investigation.

Charles Booth's invention was the combination of the census with the personal enquiry into each family. By this cross-verification he was not only able to produce a complete series of qualitative as well as quantitative descriptions of the households and their environment, but also to present this triumph of personal observation in a statistical framework covering the whole four millions of people.

Such a colossal investigation, dealing with nearly a million households, could obviously not be carried out, even in a decade, by one investigator or by any ordinary group of investigators. Some other instrument had to be found. This Charles Booth discovered in what I shall term the *Method of Wholesale Interviewing*. "The root idea with which I began the work," he tells us, "was that every fact I needed was known to some one, and that the information had simply to be collected and put together." For example, he obtained permission to arrange, with each of the sixty-six school attendance officers at work in the East End, to give a series of evenings, with his notebooks, as a witness submitting to patient examination as to the facts of each household.

The information obtained through the census papers and the school attendance officers was extended and verified by innumerable other witnesses, such as the teachers in the schools, the superintendents of artisans' dwellings and rent-collectors, sanitary inspectors and relieving officers, ministers of religion, district visitors, the C.O.S. and other philanthropic agencies. In the later stages of the enquiry the results obtained by this process of interviewing were supplemented and verified by the personal observation of the organizer of the enquiry and his staff of investigators. Finally, he completed his survey by taking up quarters where he was not known; and sharing the lives of people who would figure in his schedules.

And here I come to what was perhaps the most impressive achievement, and certainly the most picturesque outcome of the whole enquiry. The economic and social circumstances of all the families of London were graphically displayed in a series of maps, street by street, according to the actual data obtained for each street. Their eight-fold coloration showed the extent, the local distribution and even the exact location of the misery, the poverty, the comfort and the luxury of the whole Metropolis.

MEANWHILE the second part of Charles Booth's plan of campaign was proceeding; that relating to the occupations of the people, "How they work" as distinguished from "How they live." There was first a trial trip, in which I cooperated, concerning the conditions of employment and industries peculiarly associated with the East End of London, such as labor in the London docks and wharves, and the various branches of what was then called the "sweating system" in the manufacture of slop clothing and the cheaper lines of boots, furniture and cigarettes, and in women's work generally.

The outcome of these studies in East End life, more particularly the examination of the manufacture of slop-clothing in the homes and workshops of the East End, was an attempt, and I think a successful attempt, to diagnose a specific social disease, and to suggest how it could be mitigated, and probably overcome.

All those who had hitherto interested themselves in the

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vils of the so-called "sweating system" had been obsessed vith the sinister figure of the "sweater," or rather of an end-ess series of middlemen or sweaters, between the actual pro-ucer of slop-clothing or cheap furniture, and the citizen who ventually bought the article for his own use. Closely asso-iated with the presence of this middleman, or these middlemen, vas the practice of subdividing labor, so that the coat or the abinet was the product, not of one skilled craftsman, but of group of poverty-stricken employes, sometimes at work in he back premises of the sweater himself, and sometimes in-ividually toiling night and day in their own one-roomed enements.

Now what my observations and enquiries (verified by Charles Booth's statistics) proved was that there were actually ewer middlemen between the producer and the consumer, nd, be it added, far less subdivision of labor, than in the ontrasted machine industry of the characteristic factory sys-em.

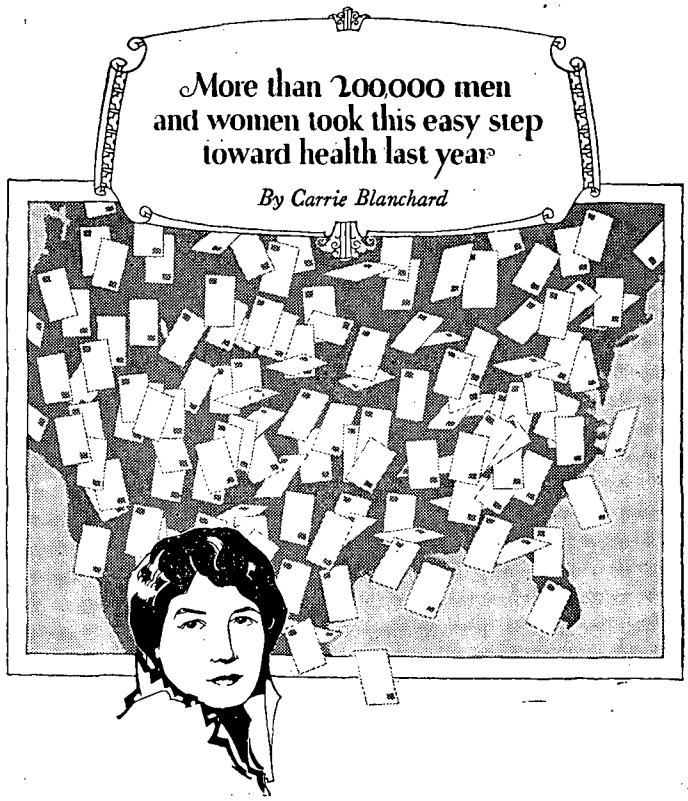
The sweater is, in fact, the whole nation [to quote from my aper before the Cooperative Congress at Rochdale in 1892]. The lass of struggling men and women whose sufferings have lately een laid bare are oppressed and defrauded in every relation of fe: by the man who sells or gives out the material on which they abor; by the shopkeeper who sells them provisions on credit, or orces them under the truck system; by the landlord who exacts, in eturn for the four walls of a bedroom, or for the unpaved and ndrained back-yard, the double rent of workshop and dwelling; nd, lastly, by every man, woman, and child who consumes the roduct of their labor. In the front rank of this, the most numer-us class of sweaters, we find the oppressed workers themselves. The middleman where he exists is not the oppressor, but merely ne of the instruments of oppression. And we cannot agree with *'unch's* representation of him as a spider devouring healthy flies. f we must describe him as a noxious insect we should picture im much more truly as the maggot that appears in meat after ecay has set in. . . . What we have to discover, therefore, is ie origin of the disorganization itself.

Now, in all the manufacturing industries in which "sweating" xtensively prevails we discover one common feature. The great lass of the production is carried on, not in large factories but ither by small masters in hidden workshops, or by workers in heir own dwellings. And, as a natural consequence of this sig-ificant fact, the employer—whether he be the profit-making mid-lleman, wholesale trader, or even the consumer himself—is re-ieved from all responsibility for the conditions under which the vork is done. The workers, on the other hand, incapacitated for ombination by the isolation of their lives, excluded by special lauses from the protection of the Factory Acts, are delivered over ody and soul to the spirit of unrestrained competition, arising rom the ever-increasing demand for cheap articles in the great narkets of the world.

Alike from the obligations and the expenses of the factory wner, the sweater is free [I had written in 1890 in reviewing he Report from the Select Committee of the House of Lords]. Meanwhile the slum landlord is receiving, for his cellars and ttics, the double rent of workshops and dwelling without in-urring the expensive sanitary obligations of the mill-owner. In hort, it is home work which creates all the difficulties of our roblem. For it is home work which, with its isolation, renders rade combination impracticable; which enables the manufacturer o use as a potent instrument, for the degradation of all, the ecessity of the widow or the creed of the Jew. And more im-ortant still, it is home work which, by withdrawing the work-rs from the beneficent protection of the Factory Acts, destroys all egal responsibility on the part of the employer and the landlord or the conditions of employment. . . .

In this labyrinth of technical detail I have been led by the nsinuating logic of facts again and again to the one central dea, round which gather scientific description and practical sug-estion—an idea which has loomed larger and larger with a loser and more personal study of the suffering and degradation of the workers—an idea which I conceive to be embodied in all he labor legislation of this century: the direct responsibility, under a capitalist system of private property, of all employers for the welfare of their workers, of all property owners for the use of heir property. . . . It will be through awakening the sense of his responsibility, through insisting on the performance of this duty, by legislative enactment, by the pressure of public opinion nd by all forms of voluntary combination, that we can alone oot out and destroy those hideous social evils known as the Sweating System.

I must not burden the reader with the subsequent history of this problem. Only very slowly and very imperfectly did he suggestion get adopted of imposing on some one as em-



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HOLLAND	1870	ROUMANIA	
ITALY	1888	SAN MARINO	
NORWAY	1902	LATVIA	
RUSSIA	1903	LITHUANIA	
AUSTRIA	1918	ESTHONIA	
		SWITZERLAND, 15 Cantons	

NEW ZEALAND: 1925.
SOUTH AMERICA: Brazil, Venezuela and Argentine.
CENTRAL AMERICA: Costa Rica, Colombia and Honduras.
MEXICO: Three States, Campeche, Yucatan and Pueblo.

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FINLAND: No executions for 92 years.
DENMARK: No executions for 33 years.
BELGIUM: No executions for 30 years.

The United States

MICHIGAN	1847	MAINE	1887
RHODE ISLAND	1852	MINNESOTA	1911
WISCONSIN	1853	NORTH DAKOTA	1915
KANSAS	1872	SOUTH DAKOTA	1915

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ployer a definite responsibility for the conditions under whi the sweated home worker performed his or her task.

Although the factory acts of 1891, 1895, and 1903 all we in the direction of putting responsibility on the "giver out" work, it amounted to little. We owe to the unwearied pe sistence of Sir Charles Dilke, M.P., and to Lady Dilke, 1908 a House of Commons Select Committee on Home Wor under the chairmanship of Sir Thomas Whittaker, M.P whose report, backed by renewed public agitation, led to t Trade Boards Act of 1909, which enabled the Board of Tra to apply, to any trade in which wages were exceptionally lo provisions permitting a joint board representative of employe workers and the public, to fix minimum rates of wages f definite working hours, employment below which was ma an offence. This Act was amended, after nine years' exper ence, by the Act of 1918, and has done much to raise t level of earnings, to lessen the excessive hours of labor, a to protect the worker from cheating and oppression throug out nearly the whole range of what used to be known as t sweated trades. The apparent tendency of all this legislati has been to drive the work into large factories, in whi improved machinery and more efficient organization reduce t cost of production so as to enable the better wages to be pai

WHAT was the effect on public opinion of the revelati of the life and labor of the common people made this "Grand Inquest?" I was so intimately associated as "industrious apprentice" with the first stage of these invest gations, and my mind was, at the time, so sensitive to i pressions, implications and inferences, that I may easily ove state the political and administrative results of Charles Booth labors.

The authoritative demonstration—a fact which could not gainsaid after the publication of Charles Booth's tables—th as many as 30 per cent of the inhabitants of the richest well as the largest city in the world lived actually at or b neath the level of bare subsistence—came as a shock to t governing class. It is true that the assertions of the Marxi Socialists, that the manual workers as a whole were in a sta of chronic destitution and that the poor were steadily becom ing poorer whilst the rich were becoming richer, were n borne out. Indeed, the high proportion of manual workers— as many as 50 per cent of the whole population—who we described as existing in relative comfort and security, was t consoling feature of his table. But the philanthropist and t politician were confronted with a million men, women a children in London alone, who were existing, at the best, a family income of under 20s. a week, and, at worst, in state of chronic want; whilst this whole class of "poor" a "very poor" were subject to physical and social surroundin which were proved by innumerable tests—from the death-ra at all ages, the prevalence of endemic disease, and the ragi of epidemics to the number of vermin-infested and dinnerle children, from prosecutions for drunkenness to convictions f "indecent occupation" of tenements—to be disastrously deter orating to the race, alike in body and mind. How had th morass of destitution and chronic poverty arisen during period of unprecedented national prosperity?

Now the static method of investigation may not be able discover causes—that is, the processes by which things happ —but it frequently yields invaluable clues, for other inves gators to follow up by one or other of the methods of r search.

What this practically simultaneous examination of four m lions of English urban society revealed was a series of affili tions or concomitants with the various degrees of destituti and poverty; not merely overcrowding but also the analogo condition of the state of repair of the houses; the sanitatio the lighting, paving, and cleansing of the streets, and, general speaking, the degree of dirt, squalor, noise and disorderly co duct characteristic of the various neighborhoods; all the conditions rising and falling with the amount and the securi of the livelihood of the family.

An even more significant fact was the rise and fall of t death-rate and birth-rate according to the degree of destituti or poverty of the families concerned. That the death-ra and especially the infantile death-rate, should be found to r with a shortage of food, warmth and breathing space, a

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above all, in the presence of ubiquitous dirt and consequent lies, was of course expected; though the actual doubling of the infantile death-rate among the denizens of mean streets relatively to that of the inhabitants of West End squares was sensational. But to one who had been brought up in the political economy of Malthus, and taught to believe that every increment of income and security would inevitably be accompanied by additional children in working-class families, it was disconcerting to discover that the greater the poverty and overcrowding, and especially the greater the insecurity of the livelihood, the more reckless became the breeding of children; whilst every increment in income, and especially every rise in the regularity and the security of the income in working-class families, was found to be accompanied, according to the statistics, by a more successful control of the birth-rate.

IN the rough and tumble of day-by-day public administration and private enterprise we cannot stand and wait for an authoritative social science: politicians, philanthropists and the plain citizen alike have, here and now, to act or refrain from acting according to any clues that may be available. Now I venture to suggest that perhaps the most noteworthy clue afforded by Charles Booth's investigation was the irrelevance of charitable assistance, whether regarded as a good or evil influence, in determining the social environment of the common people. In the light of his conclusion—surely the most weighty judgment ever passed on a social experiment, all the more weighty because it is expressed with moderation and kindliness—the whole controversy between rival schools of poor relief and private charity is seen to be obsolete in so far as the prevention of destitution is concerned.

Whitechapel, St. George's, and Stepney have been the scene of a very great experiment in the reform of the Poor Law on the anti-out-relief side. . . . When it began the people were not only very poor, but terribly pauperised, and the object was to instil independence and so to raise the standard of life. A generation has elapsed, and we can take stock of the results. . . .

Tested by the condition of the people, it is not possible to claim any great improvement. The people are no less poor, nor much, if at all, more independent. There are fewer paupers, but not any fewer who rely on charity in some form. Private charity defies control, and the work of the Charity Organisation Society has, in spite of itself, become largely that of providing, under careful management, one more source of assistance for those who would otherwise be obliged to apply to the Guardians. [*Religious Influences, ii. pp.* 50-53.]

SO much for the negative influence on opinion of Charles Booth's work. Was there no remedy for this condition of a million people, over 30 per cent, of the richest city in the world? It is surely significant that this wealthy captain of industry, by this time Conservative in politics and strongly anti-Socialist in temper and economic views, should have come out of his prolonged study with proposals the very reverse of individualist. The one force at work of which he is wholeheartedly admiring, and in which he finds most hope, is the essentially collectivist organization of compulsory education by the London Education Authority at the public expense—an organization that was, in these very years, being hotly denounced as a form of Socialism. "The disease from which society suffers is the unrestricted competition in industry of the needy and the helpless" [Poverty, i. p. 162]. His particular remedy for the conditions that he had revealed was the "entire removal out of the daily struggle for existence" of the very poor (his Class B: those who "live in a state of chronic want") . . . "for the State to nurse the helpless and incompetent as we in our own families nurse the old, the young, and the sick; and provide for those who are not competent to provide for themselves" [Poverty, i. p. 165]. When we remember that, in London alone, Class B numbered over three hundred thousand people, apart from those actually in institutions; and that for the whole kingdom they would number over three million people, the magnitude and the daring of this piece of "Collectivism" was startling.

Nothing less than this [summed up Charles Booth] will enable self-respecting labor to obtain its full remuneration, and the nation its raised standard of life [Poverty, i. p. 165]. . . . My idea is to make the dual system, Socialism in the arms of Individualism, under which we already live, more efficient by ex-

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tending somewhat the sphere of the former and making the di vision of function more distinct. Our Individualism fails becaus our Socialism is incomplete. In taking charge of the lives of th incapable, State Socialism finds its proper work, and by doin it completely, would relieve us of a serious danger. The In dividualist system breaks down as things are, and is invaded o every side by Socialistic innovations, but its hardy doctrine would have a far better chance in a society purged of thos who cannot stand alone. Thorough interference on the part o the State with the lives of a small fraction of the populatio would tend to make it possible, ultimately, to dispense with an Socialistic interference in the lives of all the rest. [Poverty i. p. 167.]

This proposal, it is needless to say, found supporters neithe among the individualists, who objected to state intervention a such, nor among the Socialists, who preferred the "stat tutelage" of the rack-renting landlord and rate-cutting em ployer to that of the very poor who were their victims.

But a more popular and practicable proposal—one already advocated by Samuel Barnett and the Fabian Society—was given an immense prestige by Charles Booth's concurrent investigation into the conditions of the aged poor throughout England and Wales; and by his advocacy of the grant by the state of non-contributory, universal old-age pensions, given as of right, irrespective of affluence, to every person attaining a given age. It was certainly due to his statistical investigations and incessant propaganda, more than to any other factor, that the Old Age Pensions Act was passed in 1908, to be greatly enlarged and extended in 1911, 1919, and 1924.

We have as the outcome of Charles Booth's poverty statistics, not indeed State provision for Class B as such, but State provision for the children of school age, State provision for those over seventy (and State provision for the blind over fifty), State provision (under health insurance) for the sick and disabled, and State provision for all those without employment (under unemployment insurance).

Meanwhile, in the sphere of collective regulation, we have seen the repeated extensions of the Factory and Workshops, Mines and Merchant Shipping, Railways and Shop Hours Acts; and the far-reaching ramifications of minimum wage and maximum hours legislation.[1]

Indeed—perhaps being "wise after the event"—if I had to sum up, in a sentence, the net effect of Charles Booth's work, I should say that it was to give an entirely fresh impetus to the general adoption by the British people of what Fourier, three-quarters of a century before, had foreseen as the precursor of his organized communism, and had styled "guaranteeism"; or, as we now call it, the policy of securing to every individual, as the very basis of his life and work, a prescribed national minimum of the requisites for efficient parenthood and citizenship. This policy may, or may not, be socialism, but it is assuredly a decisive denial of the economic individualism of the 'eighties.

FROM the standpoint of science it seems to me that Charles Booth's principal contribution was not the discovery of particular facts, but his elaboration of an adequate technique in obtaining a vision of the condition of the whole population, within a given area, at a given time. He showed us for the first time how best to combine the qualitative with the quantitative examination of social structure. He was much more than a statistician. He was the boldest pioneer, in my judgment, and the achiever of the greatest results, in the methodology of the social sciences of the nineteenth century.

[1] And is it a mere coincidence that the two most distinguished members of his staff of investigators were, within a very few years of the publication of the completed edition in 1902-3, influentially associated with perhaps the two biggest experiments in public administration and public control in the interest of the manual workers that the century has yet seen? The brilliant young statistician, who was Charles Booth's chief intellectual adviser in the first stage of the great enquiry, found himself, as Sir Hubert Llewellyn Smith, G.C.B., in 1906-10 initiating and organizing the national network of State Labour Exchanges, and in 1911-14 of the elaborate provision for the able-bodied outside the Poor Law by compulsory unemployment insurance, involving, as amended in 1918-24, an annual issue which has run up, in the worst times, to over forty million pounds a year. The other, who, Mrs. Charles Booth tells us, was "in many respects the ablest of all"—the late Ernest Aves—played a leading part in the initiation and administration of the boards established under the Trade Boards Act of 1909 (extended in 1913-18), by which, in a wide series of so-called sweated trades, employers were compelled by law to pay to all their employes not less than a prescribed legal minimum wage

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ETHICS AND THE MEDICAL PROFESSION

(*Continued from page* 621)

edical work, hurried and botched examinations, guesses at iagnosis, treatment that is a wretched farce.

BUT of late years, after the medical codes had sweepingly and justly condemned *this* sort of "contract practice" ecause it is bad not only for the physicians who have to ompete with it, but for the patients treated under its agree- ient, there has sprung up the factory physician, the mine octor, the director of a local health center, the department ore physician with his assistants, his nurses, his well equipped inic and laboratory and his quite sufficient salary. He is oing excellent work and he and those employing and those hom he treats are well satisfied with the arrangement.

Yet he is selling medical services not directly to a patient ut to a commercial concern. He certainly is doing contract ractice, and he certainly competes with the private practitioner. Much argument is spent to disprove this. It is contended that e is not treating but preventing disease, that his examinations id his advice are purely for hygienic purposes and that when- ver a patient is actually ill, he is referred to his own private octor and not treated by the company doctor. But the measure f truth in these contentions is not great. In the first place, ccidents occurring in the factory are often treated by the actory physician (or nurse) and although the treatment is sup- osed to represent nothing but "first aid," and any subsequent reatment is supposed to be carried out by the family physician, rst aid and the directions that go with it are sometimes all ie aid that the patient needs. There is usually no after care. et if the store physician or factory physician had not existed, me family physician would have earned a fee for attending the injury. It is the same with the various "medical nergencies," such as "fainting fits," headaches, colds, cramps, c., which are usually attended to at the plant. Some private ysician loses a fee in many such cases.

But this is not all. For the factory or store managers are xious not only to have illness properly treated when it occurs their plants, but they are still more anxious to have it *evented*. Endeavors are made in the plant to teach the nployes to take care of themselves so well that they shall ot fall ill with anything like the ordinary frequency. In so r as they succeed in this, the employers, through the physicians their pay, are depriving the private physician of his livelihood. The difference between the "industrial physician" and the odge doctor" is that the former is well paid, does good work id does not *so obviously* compete with the private practitioner, hile the latter is ill paid, cannot afford the time to do good ork and is obviously a competitor. But even here the competi- on and the loss are not as great as they seem, for the "lodge octor" is not called in many families if they think the trouble at all serious; or, if called the first time, the lodge doctor often soon superceded. So that I think the high-toned in- strial physician really brings as much "unfair" competition the private practitioner as the despised lodge doctor does. At y rate I remember that the *"industrial physicians"* were quite certain as to their ethical standing in the eyes of the rest the profession when a few years ago they decided to form Association of Industrial Physicians in which they could cuss the interests peculiar to their type of work.

THIS problem of "contract practice" brings out a peculiar feature of medical ethics: that in endeavoring to protect ir group interests by rules against certain "unfair" practices, physicians are likely at any moment to discover that they acting against the public interest, against the protection of blic health. No one defends "lodge practice," but everyone io has studied the subject dispassionately, defends and extols

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the work of the industrial physician, which is preventive bu not *merely* preventive in its effects. So far as I know, th American Medical Association—which represents most of th physicians in the United States and is, on the whole, a ver useful body—has never attacked industrial medicine. But, i the Association were consistent, it would attack it as it is no attacking another valuable agency for the preservation o health, namely, the Life Extension Institution.

The Life Extension Institute provides physical examination for supposedly healthy people, in order to forestall and preven disease, just as we have an elevator examined periodically t make sure that it will not break down. Having made a goo many such examinations myself, without striking benef that could see, I was sceptical of its being able to accomplis any positive benefits to health until I was convinced by th actuarial figures of the Metropolitan Life Insurance Compan which show that those who take yearly physical examination and are given such hygienic advice as the results of examina tion indicate, live longer than those who do not. Resting o these figures the Metropolitan now offers its policy holder free examinations by the physicians of the Life Extensio Institute and pays for those examinations, believing that i saves money through the increased longevity of those s examined.

But the American Medical Association, through its judicia council, protests that these examinations are bad because the ought to be made by private physicians and not by physician in the pay of an agency which might make money out of th transaction. We have just established a branch of the Institut in Boston and as a member of the group of physicians wh are acting as its advisors and endeavoring to promote th public health through furthering these preventive measure I fall under the condemnation of representative physician some of them—like William Sidney Thayer of Baltimore— men of the highest and most disinterested character and clos personal friends of those whom they condemn. Their argu ment is that we are commercializing medical service becaus these examinations ought to be made by the private physicia and because no profit ought to be made out of the transactio of examining a patient except by the physician who examin him. No layman ought to get anything out of it, for suc laymen may not have the highest interests of the patient i view, but *may* be out chiefly for profit.

Of course all this could be said about the factories and stor employing industrial physicians to keep their employes we They, too, might have merely commercial and not at a philanthropic aims. Why does not the judicial council of th American Medical Association condemn them too? I kno no answer.

The fact that the Life Extension Institute has been losi money or barely coming out square is of course no proof th it *might* not some day make money and be run with mone making as its chief end. The fact that the examinations ma in New York and Boston offices of the concern are preemi ently thorough and accurate, does not guarantee that th always will be so, in the hands of this and of other simil companies which may spring up. This must be agreed to a as a check, I think that such companies as the Life Extensi Institute should welcome (as that body does) periodic i vestigation of their methods by any properly constitut authority, such as state or federal health officers. Industr corporations employing physicians, should also invite simil scrutiny and supervision.

But how would the private physician like to undergo similar scrutiny of his records, his laboratory, his meth of examination? And how would he come out under it? Wo it be shown that he was always non-commercial, thorou dispassionate, conscientious?

My impression, from a fairly extensive experience w private physicians' methods, leads me to believe that they wo

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sent such a scrutiny, even if it involved no invasion of the tient's private affairs, and that they would not show up vorably in the art of physical, chemical or psychological agnosis. In the public clinics, in industrial establishments d in the examining rooms of the Life Extension Institute, e check of comparison with others, the records and methods en by others, the daily companionship and team-work with hers who share the responsibility and contribute the advantage their slightly different angle of vision, all tend to raise and maintain high standards of work. The isolation of the ivate practitioner, on the other hand, makes it harder for m to attain and to keep up such standards. There need be difference in innate ability, in medical school training, in nscientiousness or unselfishness between the private practi-oner and the physician connected with a group of physicians an institution like a factory, a public hospital, a dispensary a life extension institute. The two sets of men might be entical in their original personal and professional attributes. ut I believe anyone who has known both groups will have hesitation in saying that, on the average, the private physician ves less efficient service, because he works under conditions favorable to the attainment and to the maintenance of good ndards in medical technique.

The Massachusetts Medical Society considered this year the se of the Life Extension Institute recently established in oston and though not at all enthusiastic about it, decided not attempt any obstructive tactics. Recently, as I sat around table with the orthodox and respectable group of doctors mposing its advisory board (one of them since elected presi-nt of the Massachusetts Medical Society itself), I reflected, ith satisfaction, on the change that had come about in the ofession since the Committee on Ethics and Discipline of is same society publicly condemned me for advocating the me sort of experiments in public medical service that we of e Life Extension Institute's Advisory Board are now backing. hen I was an abominable heretic, though advocating these me reforms. Now I have become almost orthodox. Soon shall have become a matter of course.

In retrospect over thirty-five years' observation of the work-gs of ethics in the medical profession, I avoid any attempt to cide whether we are getting better or getting worse. No ch judgment can be better than a guess, colored by the last mor or story that one has heard. What does seem to me ear is that a medical oath of allegiance and a written code ethics, revised periodically, are of interest (1) as register-g ethical advance—not often ethical retreat, and (2) as akes on our natural tendencies to slip back. They bring edical ethics out into the open and make it less apt to become hat G. Bernard Shaw called it, "a conspiracy against the blic."

But in medical men, as in all men, the strongest force for hical advance has been, in my experience, the intimate contact ith other medical men better than themselves, whereby by smosis" nobler habits of thought and action seep across om teacher to pupil, from chief to interne, from colleague to lleague without a word spoken on the subject.

DOES PUNISHMENT PAY?

(*Continued from page* 607)

eir toll on the public's purse, and may, too, soon return for further prison maintenance, and that, on the other hand, ose who have completed their term of efficient probation may nerally be counted upon to become good citizens.

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just a "suspended sentence" that is here advocated, it is som thing far more. The suspended sentence turns a prisoner loo without any safeguards. Theoretically it is intended that h shall thereby be given another chance—and with some, course, this is enough. But with some only—in the majori of cases to turn a man back, character unchanged, to his o environment, and then to expect that he shall unaided effe a reformation, is to expect the impossible. Here is the fre will error again—the simple trust that expects all things fro just a *will* to be good. Probation has a better foundatio Here a friend is provided, a friend and adviser. It may b that a budget must be worked out, or a job found, or a mo suitable job. It may be that there are family misunderstandin to be cleared away. There is needed probably a new attitud toward life, a better understanding of the group responsibilitie of the interdependence of the group members, of what fair pla means, an extension of loyalties from the small group to th large. New contacts must be made, new friends obtained, ne recreations. Does all this sound chimerical? Are the character changes impossible? Well, get a boy into a goo boy's club, give him some duties there, and see what wi happen. Interest, pride, loyalty, ambition, cooperation, soci team-work, social sense, all will probably soon follow.

Probation means the turning of a youth who is headed th wrong way, and, first of all, the turning of him from prison No one who has even once stood behind bolts and bars is eve after a normal being. At the best he is as one wounded, cripple, and such adjustments as he can make will be thos of a cripple. Is it not reasonable to try to save as many as w can from this disabling experience? Why not, if we believ in education at all, why not develop this special education to recover to decency those who have started wrong?

I speak of probation's success, and yet I plead for it a though it were something untried. The truth is that we hav here a system now almost universally provided for by *permissiv* legislation, and actually in nominal use in most of our state especially in their juvenile courts, and yet this system is bein practised seriously and thoughtfully in only a few of our mor cultured communities. There is a wide lack of understandin of its intentions—even among the judiciary. It is being use only too often in ways that are harmful. It is a machine tha is in danger of being ruined by an ignorant manipulation. On judge finds in it an escape from difficult decisions, another find in it a way of conferring political favors, still another regard it but as a convenient means for clearing a crowded docke The probation system today, in too many places, is in politica bondage; it shares, only too often, all the limitations of th local political machine. There is as yet no general understand ing of what probation means, no public support, and so lon as this condition continues probation itself cannot wholl succeed.

Tradition, the inertia of long habit, and, linked with these the primitive satisfaction of hurting those who would hurt us these are what block the way to a proper application of thi new social method. The public has no knowledge of the failure of the past—it clamors for punishment, more punishment, pain more pain, quite oblivious of the experience of our forefathers It does not know that in the past we have tried every tortur and degradation that man and the devil were able to think o and that the only result of it all was so to brutalize the worl as to make crime more prevalent and more violent. Prison were made loathsome and fearful. Prisoners were starved They were scourged and they were branded. Their eyes wer gouged out, their tongues were torn from their roots, thei hands were cut off, their bones were broken—and still crim did not cease, it was not even checked. The truth is, thos today who call for more severity in our dealing with criminal will find their ingenuity taxed should they try to surpass tha which has already been tried—tried and failed.

(*Continued on page* 649)

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DOES PUNISHMENT PAY?

(*Continued from page* 644)

But to return to sanity. There is, besides probation, aner process of our present criminal administration that needs ne explanation and correction. I refer to parole.

We have the peculiar practice of consigning the convicted prison for definite periods. Even the so-called indeterminate tence has its arbitrary maximum and minimum. The judge, th owl-like wisdom, decides that one man needs three months, other, three years, another, ten years. But when one nembers the cant of the day, that prison is for the benefit the prisoner, that through his prison experience the culprit to be corrected and made socially safe, then the absurdity this complacent fixing of the time for his cure becomes at e evident. A physical disability is far more easy of diagnosis l prognosis than is a mental one—but suppose our doctors, their first visit, should consign their patients to bed or to a spital for selected fixed periods, and should then keep them nfined until the expiration of those periods even though a overy might long before have been effected. Or suppose, the e having expired, and the patient being still dangerously ill, doctor should then discharge him from all care, turn him , with his infection and his menace, to the damage both of self and of others. Such a practice would not be considered te sensible. And yet, in truth, it would be more wise, more e, than is our actual present practice with our socially ill. e seriousness of the criminal disease, its likely course, the sibilities of its cure and the time necessary for its cure are all far more difficult of estimation than are the parallel uncertainties of a physical disease.

It would seem to students of this problem that there is but one form of sentence that should be used, and that is the truly indefinite sentence. But this brings in another problem, the problem of release. We need "doctors" who can pass intelligently upon this next important step. In present practice, ordinary decency in prison behavior will generally gain a shortening of the term. But can this prison behavior really tell us much? The life of a prison is an ordered life. It is quite possible that a man may be wholly unfit for social freedom and still be a good prisoner. Many a decent "trusty" falls into crime as soon as released. He goes out into the world of temptation and lure, into the world of liberty and difficulty, and it does not take him long to get into trouble.

THE solution of the problem of release, as we see it, is simply this. There should be, in the first place, a board of experts, a permanent parole board, which should bring to the study of the prison inmates all that science has now to offer in the way of character interpretation. Discharge should not be possible until this board shall have decided that such discharge is reasonably safe, and it should then be made—though this last is but my personal opinion—through the original committing court or by that court's order. But something more is needed. Since no known method of studying a man in one situation will enable us to determine positively what that man will do in another situation, since no study of the average fairly normal man in prison can tell us what that man will do when given his freedom, there should be added to the prison, for all doubtful cases, a department of convalescence, a parole department of able workers. No man ever so needed a friend as the man who is emerging from a prison gate. He has been demoralized by the prison discipline, he has lost contact with the world, his stamina has been sapped, and here he is, handicapped beyond all measure, facing a complex and distrustful society, a society in which even the best of us need all of our resources for a successful adjustment.

We have parole officers now? Yes, I know of an institution with something like 1,600 inmates that has one. What a farce! We need a corps of men, superior men, men who have had social training. The position of parole officer should be a dignified position, one paying a good salary. Would that be too great an outlay? Consider the saving to the community could we but keep these discharged men from again falling into crime. Suppose a parole officer should be able to guide helpfully but ten men a year, the saving to the state in costs of prosecution alone would pay his salary several times over. No, effective parole, like good probation, is not an extravagance, it is a measure of economy. No matter what it might cost, the state cannot lose by it, it must gain.

Here then are glimpses of an improved criminal administration. Add an efficient police force and a politics-free district attorney's office, and our criminal problem will shrink, despite our laws, to a size that will no longer appall us. The problem of societal protection is not a hopeless one, it has its solutions. But these solutions call for thought, they must not be approached with prejudice. Nor should we be satisfied with formulas alone, with names alone, with just the pretence of social practice. There is work to be done here. There is a duty.

Our old methods were founded on vengeance, and it is only so far as we frankly acknowledge that this is still their foundation that they have the slightest claim to our respect. If it be vengeance we are after, then let us go ahead as we are—it can then matter little whether we injure society or not, for vengeance must always be blind to other interests. But then if we are to continue with these methods, let us give over our hypocrisy, let us stop talking about the reform of the prisoner and the protection of society.

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The Golden Years

From a Painting by Duplessis Courtesy of the Metropolitan Museum of Art

Born 1706—Died 1790.

We all know Franklin as a printer, an essayist and a remarkable statesman, but how many of us know that his most important work was done at an age when all too many men are indulging in fireside leisure? At 68, Franklin was put in charge of the mail service of the colonies. At 70, he was one of a committee of five appointed to draw up the Declaration of Independence and was made Commissioner to France to intercede for the colonies. At 75, he was sent on a commission to make peace with Great Britain. At 79, he was made Chief Executive of Pennsylvania and he held that post until he was 82. Shortly before his death at 84, he began fighting for the abolition of slavery.

AT a time when practically nothing was known about the prevention of sickness, when life was hazardous and few but the stalwart survived and when the average length of life was much shorter than it is today, Benjamin Franklin lived to be 84 years old. During those years, Franklin guarded his health and preached fresh air, exercise and moderation in food.

Do you know how long *you* are likely to live? Have you ever looked at the figures shown in the Life Table prepared by the Metropolitan Life Insurance Company? These figures tell, to a day, what the chances are. While the Table does not consider you individually, it does consider the composite you—you and all the other tens of thousands just your age. It averages those in good health, those fairly well and those ailing.

Live Longer

If you are a man, 32 years old, reasonably healthy, the Life Table tells you that you will probably live 35 more years. A woman of the same age will live 36 more years. Is that enough for you? Of course not. Think of all the vigorous men you know who are more than 67. Think of all the busy, worth-while women who are more than 68. Suppose Franklin had died at 67.

We will send you a copy of the Life Table so that you may see what your chances are—whatever your present age may be. If you drift along and do nothing about building up your health you may live as long as the Table indicates. If you are careless you may live fewer years. But if you want to live in good, sound health to a robust, ripe old age, you will begin now to plan for those extra, golden years that may be yours.

How Young are You?

That uncompromising record in the family Bible telling the day you were born may be surmounted. It fixes your *age* but it does not tell how *young* you are. In actual physical condition you may be ten or fifteen years younger than your birth certificate states—or you may be ten or fifteen years older!

Go to your doctor and find out whether your body is keeping its youth. Have him take a health inventory. Perhaps you will discover that you are in much better condition than you thought. If impairments are found they can, in most cases, be corrected. There are few organic diseases, even those which affect heart, lungs, blood vessels and kidneys, which cannot be prevented or held in check.

Get a Life Table. See how many more years it allots to persons of your age. Then have your doctor tell you how to stay young.

In order that you may know how many years are ahead of you, according to the law of averages, the Metropolitan Life Insurance Company, upon request, will send you a copy of its Life Table.

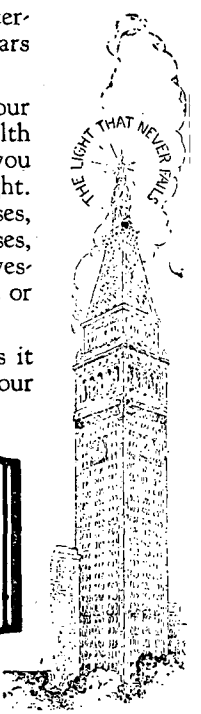
And to help you protect your health, we shall be glad to send our booklet, "Your Chance to Live".

Men and women are living longer than their forefathers lived. Life is being made safer than it was a generation ago. Medical science and sanitation are doing marvelous things to combat disease.

One after another dangerous germs have been discovered and the diseases they cause are being brought under control.

Send today for both the Life Table and "Your Chance to Live". They will be mailed you without charge.

HALEY FISKE, *President.*



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